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FEDERAL OFFICE SPACE

More Businesslike
Leasing Approach
Could Reduce Costs
and Improve
Performance





United States
General Accounting Office
Washington, D.C. 20548

General Government Division

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February 27, 1995

The Honorable Daniel Patrick Moynihan
United States Senate

Dear Senator Moynihan:

As the former Chairman of the Water Resources, Transportation, Public Buildings and Economic Development Subcommittee, you asked GAO to assess the efficiency and effectiveness of the General Services Administration's (GSA) traditional process-oriented approach for leasing office space and contrast it with the more results-oriented approach that is typically used by private industry. This report concludes that a more businesslike approach to leasing could reduce costs and improve performance. Accordingly, it makes a series of recommendations to the Administrator of GSA that are aimed at simplifying and streamlining GSA's leasing process, making it less costly and time consuming, more responsive to federal agencies' mission-support needs, and a better value for taxpayers.

We are sending copies of this report to the Chairman of the Subcommittee on Transportation and Infrastructure, the Committee on Environment and Public Works; the Administrator of GSA; the Director, Office of Management and Budget; and other interested congressional committees and subcommittees. Copies of this report will be made available to others upon request.

If you have any questions or would like further information, please contact me at (202) 512-8387. Major contributors to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in black ink that reads "J. William Gadsby". The signature is written in a cursive, flowing style.

J. William Gadsby
Director, Government Business
Operations Issues

Executive Summary

Purpose

The General Services Administration (GSA) has a virtual monopoly over the provision of federal office space. Almost one-half of GSA's real estate portfolio of 276 million square feet is leased, and leasing costs are 30 percent of its total \$7.3 billion public buildings budget. GSA now spends \$2 billion annually for leased space and projects that these costs will rise to \$3 billion by 2002, unless the ratio of federally owned to leased space is increased. Also, federal agencies have generally been dissatisfied with GSA's monopoly and the amount of time GSA takes to deliver requested space.

Expressing concern about escalating lease costs and the continued efficacy of GSA's leasing process, the former Chairman of the Subcommittee on Water Resources, Transportation, Public Buildings and Economic Development, Senate Committee on Environment and Public Works, asked GAO to evaluate the efficiency and effectiveness of GSA's policies, procedures, and practices for leasing office space and how they compare with those of private industry.

Background

GSA uses a combination of federally owned and leased office space to meet agencies' needs. GSA's costs of providing office space to federal agencies, in federally owned as well as leased space, are financed by rent payments from agencies for the space they occupy.

GSA's leasing process is guided by the Competition in Contracting Act (CICA), Federal Acquisition Regulation (FAR), and other federal laws and regulations governing the acquisition of goods and services and various national policies aimed at furthering certain socioeconomic goals. Basically, GSA prepares a detailed lease solicitation for agencies' office space requirements that it decides will be met through leased space, solicits offers from prospective landlords, selects the winning offer, and awards and administers federal leases.

To address the Subcommittee's concerns, GAO (1) examined GSA's leasing process and the federal laws, procurement regulations, and other policies that guide it; (2) reviewed a judgmental sample of 34 GSA leases and compared them with similar private sector leases; (3) interviewed almost one-half of the landlords or commercial brokers that GSA solicited for offers on the 34 sampled leases to get their views on GSA's leasing process; and (4) contacted 12 major private sector firms with large portfolios of leased office space to discuss their overall approach to leasing and identify their leasing procedures and practices.

Results in Brief

In today's commercial real estate market, good leasing opportunities come and go quickly. Getting a good value depends on being postured to seize such opportunities as they become available. However, GSA has a highly prescriptive and process-oriented leasing approach, which is grounded in federal procurement law, uniformity, and numerous procedural controls that have been added over the years.

GAO's work indicates that the cumulative effect of this approach and its focus on controls is a leasing process that has become at odds with the dynamic commercial real estate market. This process impedes GSA's ability to get good, timely leasing values and may be causing the government to pay too much for leased space.

In contrast, the 12 private sector firms GAO contacted use a different approach that is simpler, more flexible and results oriented, and less time consuming than GSA's. Also, most private realty managers and commercial landlords and brokers GAO contacted said that the private sector's approach gets overall leasing values that are better than GSA's.

GSA acknowledges the need to improve its leasing performance and has streamlined procedures for small leases; and in response to the National Performance Review (NPR) and the President's recent cost-savings initiative, it is exploring other changes. Administratively, GSA could change some aspects of its leasing process to improve timeliness and reduce costs. Alone, however, such changes would not correct all the leasing problems that GAO identified.

GAO believes that significant reductions in leasing costs and improvements in GSA's overall leasing performance will require fundamental changes in its traditional process-oriented approach, organizational culture, and role in meeting federal office space needs. Also, existing federal procurement laws and regulations and other guiding national policies will need to be reexamined.

The more results-focused leasing approach and practices used by private industry may provide ideas for improving GSA's process. They deserve consideration and testing to evaluate their benefits, risks, and potential federal application.

Principal Findings

GSA's Process Impedes Timely Space Delivery and Good Leasing Values

GAO identified several characteristics of GSA's leasing process that seem to put GSA at a distinct disadvantage in the commercial real estate marketplace, cause it to pay more than is necessary for leased space, impede timely space delivery, and discourage competition for government leases. (See p. 17.)

Historically, GSA's leasing policies, procedures, and practices and the federal laws and regulations that guide them have been focused on process rather than on results. Over the years, numerous procedural controls have been added to GSA's leasing process. Although such controls are important, their cumulative effect is a leasing process that has become rule-focused and inflexible, complex and cumbersome, and time consuming and costly. (See pp. 17-19.)

This process-oriented approach is not well suited or effective in helping GSA get good, timely leasing values in today's dynamic commercial real estate market. For example, GSA's realty staff have limited flexibility to modify space requirements or award criteria or to bargain with landlords to take advantage of available leasing opportunities, even those they believe would be good values for the government. (See pp. 19-21.)

On average, GSA took 20 months to acquire office space and have it available for occupancy on the 34 leases GAO sampled in New York, San Francisco, and Dallas that GSA awarded between 1988 and 1992. These 34 leases represented all the leases GSA awarded in the central business districts of these 3 cities during this period. (See pp. 14-15 and 22-23.)

GAO did not make independent real estate appraisals for these 34 leases. However, GSA had made or obtained market real estate appraisals for 24 of them before lease award. GSA's own price determinations acknowledged that the rates it paid for at least 10 of the 24 leases exceeded their fair market values, as established by these appraisals—2 leases were between 10 and 16 percent higher, 3 were between 5 and 10 percent higher, and 5 were higher by 5 percent or less. (See p. 24.)

The 82 landlords and commercial real estate brokers GAO contacted were highly critical of GSA's leasing process, and many of them said that GSA pays too much for its leases. These landlords and brokers said that GSA's

lengthy lease solicitations and standard leases are unconventional and confusing, and they do not understand the cost implications of many lease clauses. For these and other related reasons, many said they do not respond to GSA's solicitations or drop out of competition before lease award. Those who do compete said they often increase their proposed rates to compensate for the uncertainties, added risks, and administrative red tape they perceive are implicit in doing business with GSA. (See pp. 24-26.)

Also, GSA's leasing process seems to result in limited competition. On the 34 leases GAO sampled, GSA issued a total of 261 solicitations to 167 commercial landlords or brokers but received only 67 responsive offers and had only 1 or 2 competing offers for 24 (71 percent) of these leases. (See pp. 26-28.)

Private Sector Approach Could Provide Ideas for Improvement

There is no standard private industry leasing model, and practices differ from firm to firm. But, the 12 private firms GAO contacted use several common practices that seem to help them take advantage of available market opportunities in a timely manner. Basically, these firms use a results-oriented approach that relies on the expertise of their realty staffs or on commercial brokers. (See p. 29.)

Unlike GSA, these firms generally do not establish highly prescriptive and detailed space specifications or require extensive, multilevel reviews of proposed lease contracts. Their lease solicitations and contracts are much simpler and shorter than GSA's and conform to customary commercial practices that landlords and brokers said they are comfortable with and understand. Also, their leases place more of the risks on tenants, and this seems to help hold down rental rates. (See pp. 29-32.)

Also, these firms adjust their leased space requirements, if necessary, and negotiate aggressively with landlords for concessions and bargains, such as a few months' free rent or greater allowances for customizing the space, to conclude an advantageous deal expeditiously. Their more results-oriented approach typically enables them to lease and occupy space in 6 months or less and get overall leasing values they and many commercial landlords and brokers said are better than GSA's. (See pp. 29-34.)

GSA Has Efforts Underway to Reengineer Its Leasing Process

Over the past 4 years, GSA has initiated several actions aimed at streamlining its leasing process and improving its leasing performance. In response to NPR, GSA committed itself to and developed plans for ending its long-standing service monopolies and reengineering the way it does business, including leasing. As a part of these reengineering efforts, GSA in January 1995 reorganized its Public Buildings Service along business lines. (See pp. 35-42.)

In response to the President's recent initiative to reduce the size of government and realize long-term cost savings, GSA in January 1995 also announced plans to accelerate and broaden its ongoing reengineering efforts. Among other things, GSA committed itself to identifying the most cost-effective method of carrying out its various assigned responsibilities, including leasing. (See p. 42.)

The Federal Acquisition Streamlining Act of 1994 (FASA) and the Government Performance and Results Act of 1993 (GPRA) may help encourage and facilitate GSA's adoption of a more timely, efficient, and cost-effective leasing process. For example, FASA contains simplified procedures for leases having an average annual rent rate of \$100,000 or less. Among other things, GPRA allows certain federal agencies to obtain a waiver of existing administrative procedural requirements and controls to experiment with different approaches aimed at improving agency performance by increasing managerial accountability and flexibility. (See p. 43.)

Recommendations

GAO makes a series of recommendations to GSA aimed at simplifying and streamlining its leasing process and making it less costly, more responsive to federal agencies' mission-support needs, and a better value for taxpayers. (See pp. 46-47.)

More specifically, GAO recommends that the Administrator of GSA

- test the benefits, risks, and potential federal application of private industry leasing practices or other leasing alternatives that are within GSA's authority and seek the authority from (1) Congress to test other leasing practices or alternatives that GSA believes would require legislation and (2) the Office of Management and Budget to test any needed changes in federal administrative procedural requirements and controls under the managerial accountability and flexibility provisions of GPRA (See p. 46.) and

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- adopt administratively or, if GSA determines that legislative authority is needed, propose the necessary legislation to Congress to enable GSA to adopt those private industry leasing practices or other alternatives tested that result in documented performance improvements, make sense, and are cost effective. (See p. 46.)

GAO also recommends specific actions GSA should take to improve selected aspects of its leasing process or practices, better track and measure leasing performance, and share more leasing authority with federal agencies that are capable of and willing to lease their own space. (See pp. 46-47.)

Agency Comments

In written comments on a draft of this report, GSA generally agreed with the overall thrust and recommendations and said it will address them as part of ongoing efforts to reengineer its real estate program. However, GSA said that it cannot carry out leasing like a private sector tenant unless it receives an exemption from CICA and other statutory constraints that add time and costs to its leasing process. GAO recognized these statutory provisions in its report, acknowledged that legislative changes may be required, and structured its recommendations accordingly. GSA's comments are discussed at the end of chapter 5 and reproduced in appendix I. (See pp. 47-59.)

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Abbreviations

CICA	Competition in Contracting Act
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act of 1994
FBF	Federal Buildings Fund
GPRA	Government Performance and Results Act of 1993
GSA	General Services Administration
GSAR	General Services Acquisition Regulation
NPR	National Performance Review
OMB	Office of Management and Budget
PBS	Public Buildings Service
SEC	Securities and Exchange Commission

Introduction

As the federal government's principal real estate agent, the General Services Administration (GSA) controls the largest office space portfolio in the United States. More than 1 million federal employees work in 276 million square feet of space that GSA controls in about 7,800 buildings nationwide. GSA has a virtual monopoly over the federal government's acquisition and management of general purpose office space that is owned or leased to support federal agencies' missions. Our earlier work has shown that federal agencies have generally long been dissatisfied with GSA's monopoly as well as the quality, condition, and costs of their office space and the amount of time GSA takes to deliver it. Our key reports and testimonies over the past 5 years on GSA's monopoly and various public buildings issues are identified at the end of this report.

Once federal agencies report their office space requirements to GSA, it decides whether those requirements will be met through government owned or leased space. Of the 276 million square feet of space nationwide that GSA controls, almost one-half—133 million square feet—in over 6,000 buildings is leased. The rest—143 million square feet—is in about 1,700 federally owned buildings. In recent years, GSA has become increasingly dependent on leased office space. Between 1975 and 1994, the amount of space GSA leased increased by 37 percent, and the overall ratio of leased to owned space rose from 40 percent to 48 percent. In fiscal year 1994, GSA expected to pay \$2.1 billion for leased space, and these costs represented almost 30 percent of its total estimated \$7.3 billion public buildings budget. GSA projects that the costs of leased space will rise to \$3 billion annually by 2002 unless the ratio of federally owned to leased space is increased.

GSA's costs of providing office space and related mission-support services to federal agencies, in federally owned as well as leased buildings, are financed by the Federal Buildings Fund (FBF). GSA charges federal agencies rent for the space they occupy, which is supposed to be comparable to local commercial rents; deposits these rent receipts in the FBF; and uses them, subject to congressional limitations in annual appropriation acts, to pay building capital and operating expenses, including the costs of leased space.

GSA's Leasing Process

GSA's lease acquisition process involves five major phases: (1) refining agencies' identified office space size, configuration, and location requirements; (2) preparing a solicitation for offers detailing the government's space requirements, describing the award criteria to be

used, and soliciting offers from prospective landlords; (3) analyzing landlords' offers in accordance with the specified award criteria and selecting the winning landlord; (4) preparing, reviewing, and approving the formal lease agreement; and (5) preparing space layouts and architectural plans and customizing the space to meet the federal tenant agency's specific needs.

In leasing office space, GSA is to follow procedures prescribed in the General Services Acquisition Regulation (GSAR). GSA's procedures apply many of the procurement principles in the Federal Acquisition Regulation (FAR), the primary federal procurement regulation governing the acquisition of supplies and services, to its leasing process. GSA also incorporated into GSAR, requirements contained in the Competition in Contracting Act of 1984 (CICA) that seek to achieve full and open competition for federal contracts.

In addition, GSA's leasing process is used to further national policies and to enforce various federal socioeconomic mandates. For example, GSA's lease award criteria incorporate Executive Order 12072, which promotes the economic development of the central business districts of cities, and various Equal Employment Opportunity requirements. Finally, GSA's leasing procedures incorporate the principles of various other procurement laws, executive orders, decisions of the federal courts and the Boards of Contract Appeals, and the regulations of various agencies, such as the Environmental Protection Agency or the Architectural and Transportation Barriers Compliance Board.

GSA's Monopoly

Congress created GSA in 1949 to centralize, in a single agency, responsibilities for the housekeeping functions of the executive branch—procurement, management of real and personal property, records management, etc. The Federal Property and Administrative Services Act of 1949 gave the Administrator of GSA broad authority over the management of real property, including authority to (1) prescribe regulations governing real property management and leasing, (2) lease real property, and (3) delegate lease authority back to the head of any federal agency.

As emphasized in our December 1992 Transition Report on General Services Issues (GAO/OCG-93-28TR), GSA, since its establishment in 1949, has been torn between (1) an internal dynamic that emphasizes a centralized approach to the direct provision and operation of office space and other support services to federal client agencies and (2) a largely external

expectation that its primary role should be to set governmentwide policy, provide effective and comprehensive oversight of decentralized operations within the departments and agencies, and directly operate activities only where it makes sense and is cost effective to have a central agency involved. The latter view is generally supported by the agencies, the Office of Management and Budget (OMB), the Vice President's 1993 National Performance Review (NPR), and by us. Over the years, a shift away from direct delivery of services has resulted in a sharp reduction in GSA's employment levels. GSA's Public Buildings Service decreased from over 18,000 employees in 1978 to about 9,000 employees in 1994.

Historically, GSA generally has been unwilling to delegate to other agencies its authority to lease general purpose office space within urban areas and has opposed agencies' efforts to obtain independent public buildings authority. However, GSA has delegated day-to-day buildings management and lease administration responsibilities to federal agencies for about 2,000 of its 7,800 buildings. These agencies are now handling (or contracting) functions previously handled by GSA. However, GSA is responsible for providing governmentwide guidance and overseeing these functions.

Over the years, we have generally supported decentralized real property operations, GSA's delegations of authority to tenant agencies, and taken the position that GSA should make greater use of delegated authority.¹ To date, GSA has delegated lease acquisition authority to some federal agencies. For the most part, however, these delegations are for special-purpose space, such as military recruiting offices, medical clinics or treatment centers, and storage facilities or for general purpose office space in locations outside major urban areas or areas where GSA controls less than 250,000 square feet of space.

Several federal agencies, boards, and commissions have independent statutory leasing authority. Most of the agencies having such authority are self-supporting, and their activities are not financed by congressional appropriations. In many cases, this statutory leasing authority is only for specific geographic areas or special-purpose space. However, some agencies, such as the Securities and Exchange Commission (SEC) have broad statutory leasing authority. SEC received its statutory authority in

¹For example, see More Flexibility Needed By the General Services Administration For Delegating Leasing Authority to Federal Agencies (GAO/LCD-78-303, Jan. 9, 1978); More Effective Leasing Procedures and Practices Could Help GSA Reduce Delays in Meeting Federal Space Needs (GAO/PLRD-82-46, May 19, 1982); and Real Property Management Issues Facing GSA and Congress (GAO/T-GGD-92-4, Oct. 30, 1991).

1990. At the request of the Chairman, Senate Committee on Governmental Affairs, we reported in November 1992 on SEC's independent statutory leasing authority.² Given the small number of SEC leases and the difficulty of finding comparable GSA leases, we were unable to determine conclusively whether SEC's lease rates were higher or lower than GSA's.

Related NPR Recommendations

Due primarily to GSA's long-standing monopoly and historical focus on day-to-day real property operations at the expense of needed governmentwide leadership and oversight, NPR concluded, as we did in our December 1992 Transition Report on General Services Issues, that GSA's long-standing methods of doing business should be replaced with new methods that are based on entrepreneurial and competitive principles. NPR recommended (1) ending GSA's office space monopoly; (2) allowing federal agencies the choice of obtaining office space and related mission-support services from GSA, other federal entities, or the private sector; and (3) changing the way GSA does business. Concerning office space leasing, NPR recommended simplifying the procedures for acquiring leased office space of less than 10,000 square feet and renewing existing leases.

NPR's September 7, 1993, report also concluded that the overall federal procurement process had become "too complex, absurdly slow, and frequently ineffective" and that "elaborate safeguards often cost more money than they save." According to NPR, federal procurement needs to be reshaped by decentralizing authority to line managers letting them buy much of what they need, simplifying procurement regulations and processes, and empowering the system's customers by ending most government service monopolies, including those of GSA. Besides recommending the revision of federal procurement regulations, NPR made several other recommendations aimed at reforming federal procurement policies, procedures, and practices.

After we completed our work and prepared a draft of this report, Congress enacted procurement reform legislation. The Federal Acquisition Streamlining Act of 1994 (P.L. 103-355), enacted on October 13, 1994, seeks to enhance the federal acquisition process through certain streamlining improvements and a wide-ranging set of performance-based management goals and incentives. The act's leasing provisions are highlighted at the end of chapter 4.

²SEC Independent Leasing Authority (GAO/GGD-93-3R, Nov. 16, 1992).

Objectives, Scope, and Methodology

Expressing concern about escalating federal lease costs and the continued efficacy of GSA's leasing process, the former Chairman of the Subcommittee on Water Resources, Transportation, Public Buildings and Economic Development, Senate Committee on Environment and Public Works, asked us to examine the efficiency and effectiveness of GSA's policies, procedures, and practices for leasing office space and how they compare with those of private industry.

To respond to these concerns, we identified and examined GSA's leasing policies, procedures, and practices. We discussed their efficiency and effectiveness with responsible GSA headquarters and regional management officials and realty specialists and their legal basis with representatives of GSA's Office of General Counsel. Similarly, we reviewed and discussed with these GSA officials the federal laws, procurement regulations, and other national policies that guide GSA's leasing activities. These included FAR, GSAR, CICA, and various other laws, policy directives, and legal decisions. We also reviewed (1) earlier GAO, GSA Inspector General, and GSA internal reviews and studies of GSA's leasing process, policies, and practices; (2) available GSA data and statistics on its overall leasing performance and its delegations of lease acquisition authority to federal customer agencies; (3) the results of recent surveys of federal customer agencies' satisfaction with GSA's services; and (4) the findings, conclusions, and recommendations of NPR dealing with the federal procurement process and GSA's leasing and other real property activities.

We documented and flowcharted GSA's leasing process; examined GSA's rationale for each of its major leasing steps and requirements; and made comparative evaluations of GSA and private industry leasing policies, procedures, and performance. We judgmentally selected and reviewed a sample of 34 leases GSA awarded between 1988 and 1992—13 leases in San Francisco, CA; 12 leases in New York, NY; and 9 leases in Dallas, TX. These 34 leases, identified in appendix III, represented all the leases GSA awarded in the central business districts of these 3 federal regional cities during this period and included leases of varying sizes ranging from 540 square feet to 463,399 square feet. Our review of these leases focused on

- GSA's timeliness in meeting federal agencies' office space needs,
- the nature and degree of competition for GSA's leases,
- how GSA's procedures affected the level of competition, and
- how GSA's lease rates compared to similar private sector leases in the same building or geographic area that GSA had identified for comparative purposes.

Because of the relatively small number of leases reviewed and variations in the different real estate markets involved, the results of our sample analyses are not projectable to GSA's nationwide leasing activities.

As part of our review of these 34 GSA leases, we attempted to contact the 167 commercial landlords or real estate brokers that GSA had solicited for offers on these leases. We successfully contacted 82 of these landlords or brokers and obtained their views on GSA's leasing process, practices, and performance; how they compare with private industry leasing practices; and how they could be improved.

In 2 of the 3 federal regional cities where we did our fieldwork—San Francisco and Dallas/Fort Worth—we judgmentally selected and interviewed the real estate managers of 12 major private sector firms with large portfolios of leased office space to discuss their leasing approach and identify their leasing procedures and practices. At their request, we agreed not to identify the 12 firms by name. In selecting these firms, we used regional business directories to identify the largest firms, in terms of sales and number of employees, that were headquartered in or had offices in these two cities. Our selection criteria were that the firm (1) had at least 500,000 square feet of leased commercial office space; (2) had leased space in more than one geographic region of the United States; and (3) was willing to discuss its leasing approach with us and provide us information on its leasing practices. The 12 firms we selected are major players in the commercial real estate leasing market; 5 of them were on the 1993 Fortune 500 list, and the other 7 are recognized leaders in their respective industries. Also, 7 of the 12 firms we selected had leased space portfolios exceeding 1 million square feet. Using information obtained from the realty managers of these 12 firms, we compared their leasing procedures and practices with GSA's in terms of how they (1) identify potential space; (2) establish award criteria; (3) determine whether to use commercial real estate agents or in-house real estate staff; (4) negotiate lease clauses, lease rates, and the costs of customizing office space; and (5) evaluate whether the lease rate is fair and reasonable.

We discussed with responsible GSA program and legal officials (1) the results of our comparative analyses of GSA and private industry leasing practices; (2) the legal basis for and necessity of the GSA lease clauses and requirements that private landlords or real estate brokers/agents found most burdensome, cumbersome, or objectionable; and (3) any statutory provisions that would prevent GSA from adopting more expeditious, cost

effective, and businesslike leasing practices. Also, we identified, considered, and discussed with GSA leasing officials several actions the agency has taken in the last 3 years to improve its leasing process and various pilot projects and other changes it is exploring or considering, in response to NPR, to “reinvent” or “reengineer” its leasing policies, procedures, and practices.

We did our work between October 1992 and April 1994 at GSA’s central office in Washington, D.C., and its regional offices in San Francisco, CA; New York, NY; and Fort Worth, TX, in accordance with generally accepted government auditing standards. We discussed the results of our work with the Administrator and Deputy Administrator of GSA as well as other responsible GSA officials and considered their views in preparing this report. Also, we obtained GSA’s written comments on a draft of this report. GSA’s written comments are discussed at the end of chapter 5 and reproduced in appendix I.

GSA's Process-Oriented Leasing Approach Impedes Timely Space Delivery and Good Leasing Values

- An extraordinary example of bureaucratic red tape.
- Too complex, absurdly slow, and frequently ineffective.
- Relies on rigid rules and procedures; extensive paperwork; detailed design specifications; and multiple levels of review, inspections, and audits.
- Not achieving what its customers want.
- Ignores its customers' needs, pays higher prices than necessary, is filled with peripheral objectives, and assumes that line managers cannot be trusted.
- Its complexity forces businesses to alter standard procedures and raise prices when dealing with the government.
- So process oriented as to minimize discretion and stifle innovation.

These statements were made by the National Performance Review (NPR) about the overall federal procurement process. These same statements also characterize the General Services Administration's (GSA) leasing process.

Historically, GSA's leasing policies, procedures, and practices and the laws and federal regulations that guide them have been focused on process rather than on results. Over the years, procedural control after procedural control was added to GSA's leasing process in response to GAO and Inspector General audits, congressional concerns, and the laudable goals of ensuring compliance with overall federal procurement rules and regulations, safeguarding the government's interests, and minimizing fraud, abuse, and the number of bid protests by unsuccessful offerors. Such procedural controls are important and useful provided they are balanced with efficiency and effectiveness and do not cause organizations to lose sight of their basic missions. In the leasing area, however, the cumulative result of these well-intended procedural controls is a leasing process that has become rule-focused and inflexible, complex and cumbersome, and time consuming and costly.

Our work showed that GSA's process-oriented approach does not work very well in the dynamic commercial marketplace. It does not enable GSA to respond quickly enough in today's competitive real estate environment and impedes its ability to get the best available leasing values. We identified several characteristics of GSA's leasing process that seem to put GSA at a distinct disadvantage in the commercial marketplace, cause it to pay more than necessary for leased space, impede timely space delivery, and discourage competition for government leases.

As discussed in chapter 4, GSA recognizes that its leasing process takes too long, is too costly and inefficient, and inhibits its ability to compete effectively for good leasing values in today's dynamic commercial real estate market. To help overcome these disadvantages, GSA has initiated several actions aimed at streamlining its leasing process, reducing procedural controls that are within its administrative authority, and improving its leasing performance. In response to NPR, GSA is exploring other changes to reengineer its leasing policies, procedures, and practices.

GSA's Process-Oriented Approach Is at Odds With the Dynamic Commercial Real Estate Market

Office space is a unique commodity. Each building has a different combination of attributes and amenities, and commercial lease rates are influenced by various factors, such as the overall business and real estate conditions, location and quality of the building, length and size of the lease, and cost of customizing space to meet tenants' needs. Also, other factors, such as superior window views, influence lease rates.

Since leased space is continually coming on and going off the market, getting a good real estate leasing deal depends heavily on being postured to seize available market opportunities. However, the process-oriented nature of GSA's leasing approach makes it difficult for GSA to move quickly. GSA's approach is at odds with the dynamic commercial real estate market that rewards—with low lease rates and good leasing values—those who move quickly, are aggressive and innovative, seize available opportunities, and negotiate the best deals. It impedes GSA's ability to get good, timely leasing values in the highly competitive commercial marketplace.

As mentioned earlier, GSA's leasing policies, procedures, and practices historically have focused on process rather than results. According to responsible GSA officials, this focus occurred because GSA employees were concerned that any noncompliance with established procurement rules and regulations, fraud or abuse, bid protests from unsuccessful offerors, or other public criticism implied weaknesses in management controls or poor agency performance. In response to GAO and Inspector General audits; congressional or media criticisms over the years; and the laudable goals of minimizing adverse audit findings, fraud and abuse, and the number of bid protests; additional procedural safeguards and controls were added to more fully protect the government's interests.

To help ensure compliance with established federal procurement rules and regulations and avoid bid protests, GSA's leasing process emphasizes full and open competition for federal leases and fair and equal treatment of all

potential bidders. In accordance with the Competition in Contracting Act (CICA), GSA's policy is to explicitly lay out federal space requirements when soliciting bids and choose among competing offers strictly on the basis of specific, established award criteria. Because firms can protest procurement decisions if they feel they have been treated unfairly, GSA devotes much of its time and efforts to ensure that they are treated fairly.

During the 5-year period covered by our review—1988 through 1992—GSA had an elaborate, time-consuming process for leasing office space and obtaining internal GSA and external reviews and approvals of proposed lease solicitations and agreements. As illustrated in appendix II—an 11-page flowchart—GSA's leasing process included hundreds of steps and involved dozens of independent reviews and checks. GSA realty specialists said that they have limited discretion to diverge from the prescribed process. According to them, their role is to understand the process, work within it, and ensure compliance. Typically, all steps must be completed before a lease contract can be signed.

Depending on the value of the lease, GSA realty specialists had to obtain information or approval from as many as 14 different offices. In San Francisco, for example, leases costing more than \$1 million required an appraisal of the value of the proposed lease and preaward approval from GSA's Office of Inspector General, Regional Counsel, and the Regional Acquisition Management Staff, as well as the Department of Labor's Office of Federal Contract Compliance Programs. To facilitate these preaward reviews, GSA realty staff is to copy a complete record of the proposed lease, which can involve boxes of material, and provide it to reviewing offices.

Many of GSA's lease clauses, provisions, and specifications are strictly controlled as a result of law, executive order, or external regulation or are standards that have been requested by the customer agency. As a consequence, GSA realty specialists have limited flexibility to take advantage of available real estate market opportunities. GSA specifies leased space requirements, as well as the criteria that will be used to award a lease, months before soliciting offers from landlords. Once the leasing process has begun, GSA realty specialists have limited flexibility to modify space requirements or award criteria to take advantage of available market opportunities, even those that they believe could be extremely good deals. GSA realty specialists are concerned that any change could be construed as unfair or detrimental to or by some potential landlords and could result in bid protests. For example, if GSA receives two comparable

offers and one building has a fitness center but the other does not, GSA cannot consider this additional amenity in selecting the winning bid, regardless of its desirability or value, unless one of the award criteria was having a fitness center. Similarly, GSA realty specialists have limited flexibility and have been reluctant to modify standard lease clauses and provisions, even those within GSA's discretion.

GSA's detailed space and geographic location requirements as well as the criteria for awarding a prospective lease are specified in a document called the solicitation for offers. GSA formally advertises these office space leasing requirements and provides the solicitation to commercial landlords or their broker representatives who may be interested in competing for federal leases. Because the solicitation specifies all requirements so that potential landlords have full knowledge of what they are bidding on, it is complex and lengthy.

GSA's standard lease solicitation contains about 40 pages. It contains at least 12 pages of general information about GSA's leasing process and space needs, such as a description of the amount, type, and location of needed space; the award factors; and how to prepare and submit offers. This is followed by 26 pages of technical specifications covering various matters, such as general architectural standards and interior finishes; mechanical, electrical, and plumbing systems; services, utilities, and maintenance; and safety and environmental requirements.

Some of the specifications in the solicitation are basic and straightforward, such as requiring walls around elevator shafts and rest rooms or that work completed in connection with the lease be done by skilled workers and mechanics. Others are more technical and esoteric and highly prescriptive. For example, GSA's standard lease solicitation

- specifies the carpet pile yarn content, carpet pile construction, pile weight, secondary back density, carpet construction, and static buildup for carpet tiles installed in the space;
- defines acceptable noise levels in terms of a minimum ceiling noise reduction coefficient and a minimum ceiling and partition sound transmission class and includes more prescriptive noise specifications when such requirements are of particular concern to the customer agency;
- contains seven pages of handicapped access standards; and
- establishes a janitorial service schedule that details what must be done daily, 3 times a week, weekly, every 2 weeks, monthly, every 2 months, 3 times a year, twice a year, annually, every 2 years, and every 5 years.

This rigid, highly prescriptive approach carries over into GSA's standard lease. GSA's standard lease incorporates, in full, the 40 pages of general information and technical specifications that were included in the solicitation, plus varying numbers of additional pages of lease provisions and specific requirements—such as performance, ethics, and labor standards as well as any other requirements that include detailed specifications on how GSA wants the landlord to customize the space—that are unique to the subject lease. As with the solicitation, trying to cover all possible contingencies results in a complex and lengthy lease document. For example, the 34 leases we sampled averaged 90 pages. According to GSA's Office of General Counsel, much of this length results from lease clauses GSA has adopted administratively that are not specifically required by law.

The standardized lease that GSA used for many of the 34 leases we sampled contained well over 100 lease clauses that were designed to comprehensively protect the government's interests. Some clauses—such as those giving the government authority, without penalty, to change tenants—transfer risk to the lessor. GSA revised its standardized lease in August 1992 and eliminated or shortened some lease clauses. However, it did not (1) determine whether all standard lease clauses are needed, (2) identify how often particular clauses are actually being used, or (3) target lease clauses that may cost more than they save or otherwise need to be reexamined or reconsidered.

Besides a rigorous and rigid leasing process, GSA relies on its realty staff to identify available space for lease, solicit offers, and award leases. However, GSA may not have enough leasing activity in particular markets for its realty staff to remain sufficiently knowledgeable of current market conditions and trends, space availability, or good leasing values. In San Francisco, for example, GSA awarded only three leases in fiscal year 1992 and four in fiscal year 1993. Also, as discussed later in this chapter, GSA lacks a complete and useful automated database on current commercial realty activities and rates. Without such data, GSA cannot effectively monitor market trends or evaluate the offers it receives from prospective landlords.

**GSA's Leasing Process
Is Time Consuming
and May Be Causing It
to Pay Inflated Rates**

On 34 leases we sampled that were awarded in San Francisco, New York, and Dallas between 1988 and 1992, GSA took an average of about 20 months to deliver office space to the requesting federal agency. As table 2.1 shows, the amount of time GSA took to deliver space on the sampled leases, from the date of the agency's request for space until the date the space was available for agency occupancy, ranged from a low of 4.8 months to a high of almost 66 months.

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Table 2.1: Amount of Time GSA Took to Deliver Space on 34 Sampled Leases

City	Lease number	Elapsed time (months)
Dallas	LTX13222	10.0
	LTX13699	12.1
	LTX13448	12.1
	LTX13550	12.6
	LTX13207	13.2
	LTX13461	13.4
	LTX13765	16.8
	LTX13708	17.9
	LTX13271	26.6
New York	LNy22639	4.8
	LNy22495	10.1
	LNy22408	13.2
	LNy22684	16.2
	LNy22636	16.6
	LNy22542	20.2
	LNy22522	22.9
	LNy22493	24.3
	LNy22414	26.4
	LNy22645	26.7
	LNy22590	27.6
	LNy22464	65.8
San Francisco	LCA91070	10.9
	LCA89240	12.4
	LCA90062	14.3
	LCA90017	14.8
	LCA90473	16.5
	LCA68302	17.1
	LCA91267	17.1
	LCA89959	20.6
	LCA89509	21.6
	LCA86796	22.9
	LCA08058	31.0
	LCA90430	39.6
	LCA68322	41.9
Overall average		20.0

Source: GSA data.

We did not make or obtain our own independent market real estate appraisals for the 34 GSA leases we sampled. However, GSA had made or obtained a market real estate appraisal for 24 of these leases before lease award.¹ GSA's own price determinations acknowledged that the rates it paid for at least 10 of these 24 leases exceeded their fair market values as established by these appraisals—2 leases were between 10 and 16 percent higher, 3 of them were between 5 and 10 percent higher, and the 5 others were higher by 5 percent or less. GSA's stated reasons for awarding these leases at a higher rate were that there were no alternative competing offers and an urgent need to get the federal tenant agency into new space.

Using GSA's appraisals for these 24 leases, we attempted to compare the lease rates GSA paid with those paid by the private sector. However, we were not able to make conclusive comparisons because the appraisals did not contain enough information for us to determine whether (1) the private sector leases that GSA's appraisers used were valid comparables or (2) the adjustments that GSA's appraisers made to account for differences in the terms and conditions of the leases and the quality, exact location, and amenities of the space involved were appropriate and reasonable. In its October 19, 1994, written comments on a draft of this report, GSA said it did not understand why we could not use its appraisals to make conclusive comparisons. We could not make conclusive comparisons because GSA's appraisals for these leases did not contain enough data and supporting documentation to permit us to independently verify their accuracy and validity.

The 82 commercial landlords and brokers we contacted that GSA had solicited for offers on the 34 sampled leases generally were highly critical of GSA's leasing process, and many of them said that GSA pays too much for leased space. They characterized GSA's leasing process and leases as overly prescriptive and bureaucratic, confusing and time consuming, contrary to commercial real estate practices, and transferring excessive risks to the lessor. Consequently, these landlords and brokers said that they are reluctant to compete for GSA's leases. Many of those who do compete said that they increase their rental rates in order to compensate for the uncertainties, added risks, and administrative red tape they perceive are implicit in doing business with GSA.

Over one-half (45) of the 82 commercial landlords and brokers we contacted specifically said that GSA pays inflated rental rates on its leases.

¹GSA did not make or obtain a real estate market appraisal for the nine Dallas leases, which all involved less than 20,000 square feet, and one of the New York leases, which was for 3,724 square feet.

Basically, they said that GSA's leasing approach and process cause it to pay more than necessary for leased space. They generally attributed this to GSA's rigid, bureaucratic, and time-consuming leasing process and resulting standardized leases, which they view as cumbersome, confusing, and lengthy. Table 2.2 shows the specific reasons these 45 landlords and brokers cited for this belief and the number of landlords or brokers that cited each reason. Many of them cited more than one reason.

Table 2.2: Reasons Brokers and Landlords Cited for GSA Paying Inflated Rates

Reasons	Number
They find process for estimating the cost of customizing space confusing	27
They object to standard federal lease	24
They find solicitations confusing and lengthy	16
They object to paperwork and bureaucracy	24

Source: GAO interviews.

The landlords and brokers we contacted said that they typically increase their proposed rental rates to GSA to compensate for perceived added risks because they do not understand the cost implications of many of GSA's standard lease clauses, technical specifications, or space build-out requirements. Specifically, 27 brokers and landlords said that GSA pays too much for leased space because of the way the agency approaches space customizing (buildout) to meet the federal tenant agency's specific needs. Similarly, 24 landlords and brokers said that GSA pays more because it insists on using a standard lease and 16 said that GSA pays too much because its solicitations are confusing. Finally, 24 of them specifically said that GSA pays more because many landlords and brokers increase their rates to compensate for the time and effort involved in working their way through federal paperwork requirements and bureaucracy. Those landlords and brokers who said that GSA was getting reasonable rates attributed this to a soft commercial real estate market. However, they too cited several characteristics of GSA's leasing process and leases that they said tend to increase federal lease rates.

The commercial landlords and brokers we contacted also said that GSA's procedures for customizing or building out leased space to meet federal tenant agency requirements—referred to as the leasehold improvement process—add to the length and complexity of GSA's standard lease and also transfer risk to the owner. GSA expects prospective landlords to estimate these costs and include them in their bids but does not provide architectural plans. Since customizing the space to meet the federal

agency's specific requirements can be expensive, landlords are faced with considerable financial uncertainty. This uncertainty is heightened by the fact that some special federal space requirements, such as bullet-proof glass for the Secret Service's offices or secure weapons storage facilities for law enforcement agencies, are uncommon in the private sector. Thus, landlords generally are unfamiliar with the costs of such special federal requirements. To compensate for the uncertainties and risks that are inherent in building out the space to GSA's specifications, many of the commercial landlords and brokers we contacted said that they increase their proposed rental rates to GSA.

GSA's Approach Seems to Discourage Competition

Full and open competition for GSA's leases is designed to ensure that all responsible sources are allowed to compete. All competitors must be provided the same information and judged on the same criteria. Competition also serves as the government's primary price control mechanism. However, GSA had relatively little competition for the 34 leases we sampled, and over 90 percent of the 82 commercial landlords and brokers we contacted said that GSA's highly prescriptive and process-oriented approach discourages competition for government leases.

Our review of 34 GSA leases in San Francisco, New York, and Dallas showed that many brokers and landlords who were invited to compete for them did not respond. On these 34 leases, GSA issued a total of 261 solicitations to 167 brokers or owners but received only 67 responsive offers. As table 2.3 shows, GSA had only one or two responsive offers to consider for 71 percent of these leases.

Table 2.3: Limited Competition for 34 Leases GAO Sampled

Number of responsive offers	Leases	
	Number	Percent
1	17	50
2	7	21
3	4	12
4	2	6
5	3	9
6	1	3

Source: GAO analysis.

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To illustrate limited private sector response to GSA's leases, GSA issued a lease solicitation in May 1988 for about 40,000 square feet of space in New York to 11 prospective brokers or building representatives, some of whom represented more than 1 building, but received only 2 offers. GSA said this was because the real estate market was strong at that time, and many landlords simply were not interested in doing business with the government. Of the two landlords who submitted an initial offer, one later withdrew from the competition because he objected to some of the requirements in GSA's lease clauses. GSA eventually awarded this lease to the sole remaining landlord at a rate that was 16 percent above its own real estate market appraisal.

As mentioned earlier, we contacted 82 of the 167 landlords or brokers that GSA solicited for offers on the 34 leases we sampled. Almost all of them (94 percent) said that GSA's process discourages competition. While each landlord or broker we interviewed had a slightly different story to tell about why GSA's leases attract limited competitors, many of them cited dissatisfaction with some aspects of GSA's leasing process and acknowledged that this affects the nature and degree of competition as well as the lease rates that GSA pays. Table 2.4 shows the reasons landlords and brokers cited for limited competition for GSA's leases.

Table 2.4: Reasons Landlords and Brokers Cited for Limited Competition

Reason	Percent
Object to the bureaucratic nature of GSA's process	68
Find the solicitation confusing and too lengthy	43
Object to using the standard federal lease	43

Source: GAO interviews.

Of the landlords and brokers we contacted, 68 percent said they are reluctant to compete for federal leases because of the bureaucratic and time-consuming nature of GSA's process. They said that GSA's numerous internal reviews, coupled with the unfamiliar and time-consuming paperwork requirements, make leasing to the federal government a very frustrating experience. Also, they said that GSA is reluctant to modify or eliminate lease clauses to recognize their concerns. One broker commented, "Everyone's involved in the process, but no one can make a decision."

Forty-three percent of the brokers and landlords we contacted said that GSA's lease solicitation discourages competition. They said that GSA's lease

solicitation can be very daunting because of its size and complexity. For example, one landlord commented that as soon as he signed the lease he was probably out of compliance because of the large number of GSA requirements involved. Also, these landlords and brokers said they find GSA's lease solicitation to be confusing because many of its requirements and specifications are highly technical, esoteric, and differ from commercial market norms. For example, one broker said that parts of GSA's solicitation are so technical they are beyond the average broker's comprehension.

Similarly, 43 percent of the landlords and brokers we contacted objected to GSA's standard lease. They find it unresponsive to their concerns and difficult to understand and comply with. Many of them said that GSA's standard lease clauses are cumbersome and confusing because such clauses generally do not exist in private sector lease contracts. Also, they pointed out that the effect of some GSA clauses, such as those giving the government the option (without penalty) to terminate the lease unilaterally after giving the owner notice or to change tenants, is to transfer risk to the lessor. Another clause frequently mentioned as problematic was the right to substitute other federal tenants. Landlords are concerned that GSA might transfer an agency into their building that would not be consistent with the building's character, such as a law enforcement agency in a downtown office building, and that they would have little, if any, say in this.

Since landlords can maximize their profits by securing tenants quickly, they said they prefer to rent to businesses that typically move into space and begin paying rent much quicker than GSA. Some of them said they simply refuse to do business with GSA. A few brokers said that they would compete for a GSA lease only if they had no other prospective tenant. Other brokers said that landlords may rent to commercial tenants during the lengthy period GSA's leasing decision is pending, and this also can reduce GSA's options in choosing prospective buildings.

Landlords' and brokers' general reluctance to do business with GSA could worsen. Brokers we contacted noted that, during this soft real estate market when buildings are partially vacant and there are few other potential tenants, landlords generally are willing to rent to GSA because they are desperate for tenants. However, they said that GSA will be at a greater disadvantage when the real estate market improves.

Private Industry Leasing Practices Are Focused on Results Instead of Process

Although there is no standard private industry leasing model, and practices differ from firm to firm, the practices of the 12 major private sector firms with large portfolios of leased office space that we contacted share several common characteristics that seem to help them take advantage of available market opportunities and lease space quickly. This chapter describes these firms' leasing approach and practices on the basis of interviews with their realty managers, who willingly provided us with information about the firms' leasing activities.

Basically, these 12 private firms are results oriented, take a flexible and practical approach to leasing, and treat each lease as a unique case. Their leasing processes and practices generally are simpler, less time consuming, and more cost efficient than the General Services Administration's (GSA). In contrast to GSA, for example, they do not (1) establish prescriptive, detailed technical specifications or (2) require extensive, multilevel reviews of proposed lease contracts. These firms rely on the expertise of their in-house realty staffs or commercial brokers to lease space and are willing to modify their requirements and negotiate trade-offs with landlords to quickly conclude a deal. For these and other related reasons, the realty managers we contacted said that they believe their firms and most other private sector firms generally get better overall leasing values than GSA. As discussed in chapter 2, this belief is shared by many of the landlords and brokers GSA solicited on 34 sampled leases.

Private Sector Relies on Market Expertise and Flexibility to Lease Space

The 12 private firms we contacted focus on results rather than on the process when leasing space. Because leases have a direct impact on profitability and productivity, their major concern, according to the realty managers we contacted, is to quickly obtain space that meets their operational needs and at a competitive rate. Most of these realty managers said that their firms' total leasing process—from identifying the space need to occupying leased space—typically takes 6 months or less.

Rather than establishing mandatory guidelines or prescribing step-by-step procedures, these private firms typically rely on the expertise of their leasing staffs or commercial brokers and flexibility to lease needed space. They do not place requirements on their realty managers that may impinge on the firm's ability to achieve results. For example, one realty manager explained his firm's rationale for avoiding excessive controls over the leasing process. This realty manager said that rigid procedures only increase paperwork and discourage staff from taking initiative and responsibility in meeting space needs. In addition, he said that if leasing

procedures are excessively prescriptive, his staff may become overly concerned with following procedures rather than pursuing the real objective of quickly obtaining space and at a competitive rate.

According to the private industry realty managers and commercial brokers we contacted, getting a good value in real estate often heavily depends on being postured to seize market opportunities as they appear because good lease opportunities can and do come on and go off the market quickly. Although the realty managers we contacted said that some private firms continue to rely on their in-house realty staffs to identify buildings and negotiate lease terms with prospective landlords, they said that using commercial brokers has two advantages, which are (1) gaining access to the brokers' market knowledge and information networks and (2) reducing staffing costs.

According to these realty managers, most brokers develop and maintain extensive databases on recent lease transactions. As a result, these managers said that most brokers have complete, reliable, and up-to-date information regarding recent actual lease rates, terms, and rental concessions in various geographic areas. Such databases give brokers easy access to the kind of information needed to assess overall market trends, plan negotiation strategies, and evaluate proposed lease terms. These realty managers said that such information allows brokers to negotiate more aggressively for lower lease rates and rental concessions.

Also, these realty managers said that private sector firms have found they can reduce their costs substantially by using commercial brokers to lease space for them in lieu of having their own large, full-time realty staffs. In the commercial real estate industry, brokers generally earn their commissions from landlords for locating tenants and negotiating leases. Although brokers' fees are not paid directly by private sector firms, the realty managers we contacted said that brokers would still secure good deals for them to ensure their future business. Some firms we contacted have given exclusive leasing rights to specific brokers so that they will become more familiar with the firms' operational needs for space.

Private Sector Practices Are Simpler, More Flexible, and Impose Less Risks on Landlords

The leasing practices of the 12 private firms we contacted are simpler, more straightforward, and less rigid than GSA's because they generally do not establish mandatory guidelines or prescribe step-by-step procedures for leasing space. Similarly, these firms do not require their realty staffs to develop detailed technical specifications before soliciting offers from potential landlords. Instead, their realty staffs typically meet with commercial brokers to discuss, in general terms, the amount and type of space needed. Their strategy is to be flexible and practical, determine what space is available that could meet their needs, and adjust their space requirements, if necessary, to get the best available leasing value. This nonprescriptive approach is more sensitive to landlords' concerns since it does not impose as many tenant requirements or risks on them.

According to the realty managers we contacted, once commercial brokers understand the firm's space needs and constraints, including location and budgetary considerations, they begin to identify potential buildings that could meet these needs. These managers said their brokers are very knowledgeable about the commercial real estate market and generally identify potential buildings quickly. Brokers provide firms with a technical review of each building that potentially could meet their needs, including studies of building infrastructure and building systems as well as space efficiencies and workflow. When initial offers are received from potential landlords, brokers prepare a financial evaluation of each of the offers, identifying the ones that offer the best overall value. After the firm selects the building it wants, brokers try to negotiate for a better lease rate or for additional concessions. If the broker cannot successfully conclude negotiations for this building, he/she negotiates for the next most favorable building.

The brokers we contacted emphasized that landlords do not want to waste their time and resources pursuing a potential tenant unless they have a realistic chance of getting the lease. Thus, brokers generally zero in on a few buildings after their initial survey of the space available in the market. Typically, one building emerges as offering the best overall deal, and the firm lets the landlord or broker know that this building is under serious consideration.

Typically, these private firms let the landlord or their broker know what is needed to make the deal acceptable and whether the landlord or broker has a good chance of getting the lease. Some of these firms sign a letter of intent that, although not legally binding, signifies a serious commitment to negotiate a deal. Thus, landlords or their brokers are encouraged to spend

the time necessary to put together a deal because they realize they have a good chance of getting the lease. Rather than risk losing an interested client, the realty managers of the 12 firms we contacted believe that landlords tend to be more willing to improve the lease package by offering additional concessions.

These 12 private firms also recognize and are sensitive to landlords' legitimate concerns about financial and other risks they incur when leasing space to tenants. The realty managers we contacted said that landlords are as eager to find a responsible tenant as tenants are to find a cooperative landlord. These managers also believe that the pressures of a competitive marketplace keep landlords from making unreasonable demands of their tenants. These managers said that sensitivity to landlord's needs is part of being a good tenant and that it helps set a cooperative tone for future dealings.

Rather than being dogmatic about their needs and leasing procedures, these private firms generally are willing to modify their requirements if this approach will result in a lower lease rate, a speedier transaction, or promote a better business relationship with the landlord. For example, a firm that prefers indoor parking will accept a building that can only provide outdoor parking if indoor parking is scarce or commands a high price in the marketplace. Similarly, an unexpected amenity, such as free parking, may be the factor that causes a firm to make a deal for a particular building.

The 12 private firms we contacted said they also minimize the number and nature of internal reviews of proposed leases and that their reviews of proposed leases normally take 2 weeks or less. When these firms and their landlords reach a tentative agreement, the lease is reviewed at higher levels in the firm to determine its acceptability from a legal and business perspective. The legal department reviews the lease to determine if the landlord is shifting an unreasonable amount of risk to the firm and may add or modify lease clauses to protect the firm's interests. Similarly, a high ranking firm official typically reviews the proposed lease from a business perspective to assess the impact it is likely to have on the firm's ability to achieve its business objectives. In its business review, the firm looks at items such as the lease rate, the building's location, the length of the lease, and whether the space meets the firm's operational needs.

Private Sector Leases Conform to Prevailing Industry Practices and Are Straightforward and Aggressively Negotiated

The leasing requirements and lease agreements of the 12 private sector firms we contacted usually are stated in relatively general terms. These firms typically use the landlords' lease, which generally conforms to customary and prevailing commercial real estate practices and terminology. Although these firms have large inventories of leased space, they seldom impose their lease contracts on the landlords. Their realty managers acknowledged that private firms would be better protected if they were to use their own lease. However, they said that imposing their lease on landlords would increase the time needed to close the deal, increase the lease rate, and discourage some landlords from leasing to them. In effect, these private firms are willing to trade an increase in risk to them for timeliness, lower rates, and increased competition.

These realty managers said that using the landlord's lease is a common and accepted practice in the private sector. They said that landlords prefer to use their own lease because it generally is standardized for all tenants in the building, and this gives landlords a greater sense of control. These realty managers said that private firms generally accept the landlord's basic lease provided they can modify certain clauses as necessary to protect their interests. Although the wording of leases differs from landlord to landlord, these managers said that commercial leases generally cover standard items and requirements.

Many of these realty managers said it is impossible to write a lease that can anticipate and prevent all problems. They said that serious disagreements with landlords seldom occur and most minor problems can be resolved informally through discussions. If a serious disagreement does occur, the wording of the lease will not prevent the tenant or landlord from seeking legal remedies. As a result, many of the realty managers we contacted believe a lease that is too prescriptive and overly protective of the tenant will only raise landlords' concern and slow down lease negotiation. Thus, these managers said they resolve problems during lease administration rather than trying to anticipate and preclude them in the lease contract.

Typically, the lease contracts used by the 12 private firms we contacted are relatively short—less than 40 pages. Many of their terms and requirements are straightforward and not specified in great detail. For example, the lease may state in general that

- the landlord is responsible for providing repair and maintenance in a timely manner unless the tenant damages the property intentionally or through negligence,
- the tenant may not sublet the space without the landlords' consent, and
- that the landlord is responsible for meeting the requirements of the Americans with Disabilities Act.

To help simplify the lease negotiation process, save time, and hold down leasing costs, the 12 private firms we contacted said they typically follow the common commercial real estate market practice of negotiating a tenant improvement allowance with the landlord. According to these firms, the use of such allowances typically enables them to customize or build out the space and have it ready for occupancy in 16 weeks or less. Unlike GSA, these firms do not ask landlords to assume the risks of customizing the space according to their operational needs. They said that without investing considerable time and effort in having their own engineers or independent contractors review the tenant's proposed detailed floorplan and specifications, landlords do not know how much it will cost them to customize the space for the tenant. Space build-out allowances limit landlords' total cost exposure. For example, an allowance of \$25 per square foot for a 10,000 square foot lease means that as part of the rental rate the tenant is entitled to space customizing improvements costing up to \$250,000. Regardless of the ultimate costs of customizing the space, landlords are committed to pay only the first \$250,000.

The realty managers of these 12 private sector firms said they try to stay within the allowance limit. If these firms use less than the amount of the build-out allowance, however, landlords typically credit the balance toward their rent. Thus, many of them said they will accept existing build-out or modify their requirements to lower their leasing costs.

GSA Has Initiated Some Leasing Improvements and Is Exploring Others

The General Services Administration (GSA) has acknowledged that its leasing process is too time consuming, costly, and cumbersome to permit it to compete efficiently and effectively in today's dynamic commercial real estate market. In the 1990s, GSA has initiated several actions aimed at streamlining its leasing process and improving its leasing performance. In response to the National Performance Review (NPR) and a recent initiative by the President, GSA is exploring other changes in existing leasing policies, procedures, and practices to improve its overall leasing efficiency and effectiveness. Also, recent legislation may encourage and facilitate improvements in GSA's leasing process and performance.

Timeliness Has Been a Long-Standing Problem

GSA's inability to lease and deliver space to federal agencies in a timely manner is not new. It is well documented in a series of GSA studies and reviews dating back to the late 1970s when criticisms of its performance first began to build. As early as 1978, agencies were complaining about GSA's leasing monopoly, the timeliness of its leasing process, and inconsistencies among GSA regions in responding to their requests for space. Over the years, agencies' complaints about GSA's time-consuming process and preoccupation with competition and procedural requirements at the expense of service delivery have become routine.

GSA's own studies of its leasing activities have expressed concerns about overregulation, confusion in policy and direction, the lack of adequate performance standards, hard data on workload and performance measurement, and staffing models indicating the proper level of resources GSA should devote to this function. GSA's latest comprehensive study of its space delivery process in 1988 reached the following conclusions:

"The space delivery process is unfocused, inefficient and getting worse. The process is too slow, too confusing, and a source of frustration to both our customers and the realty specialists who are primarily responsible for the product . . .

Perhaps the most disturbing implication of all is the pervasive tone of defeat among so many of the participants in the space delivery process. There is a widespread sense that no one can change the process or make it work faster. We seem to have lost our will to succeed. The truth is that we can and unless we make substantial improvement in performance soon our customers are going to mount a successful drive to obtain leasing authority."

In 1988, GSA noted that it took an average of 307 days to deliver requested space to federal agencies, compared to an average of 239 days in 1977. Although GSA's study emphasized that the exact causes for this increase could not be empirically determined, it noted that space requirements have become more sophisticated, the process more complicated and technical, and regulation has increased. This study made several recommendations for change that were aimed at improving GSA's overall leasing performance. Most of the recommended changes were within GSA's direct control.

GSA Actions to Streamline Its Leasing Process and Improve Its Leasing Performance

In response to the 1988 internal study, GSA undertook three initiatives aimed at improving the efficiency and effectiveness of its leasing activities—streamlining procedures for certain small leases, automating its database on commercial real estate market activities, and experimenting with the use of commercial brokers. Also, as indicated earlier, GSA eliminated or shortened some standard lease clauses in August 1992 but did not systematically reassess the basis for and continuing need for each standard lease clause. More recently, GSA has reduced some procedural controls over leasing that are within its administrative authority and changed its method of measuring space to conform with typical private sector practice.

In August 1991, GSA established streamlined procedures for leases (1) under 10,000 square feet or (2) with a total cost of less than \$25,000 or a term of less than 6 months. Since leases under 10,000 square feet comprise over 70 percent of GSA's inventory, this expedited process was designed to be a faster, less complicated way for GSA to handle the majority of its leasing transactions. GSA intended to make this expedited process less formal, relying more on the expertise of realty specialists than on detailed specifications and contract requirements. However, GSA found that this expedited process is suitable only for existing space that can meet agency needs with minimal alterations. Therefore, it may be applicable only to a few small leases. Social Security offices tend to be under 10,000 square feet, for example, but they typically require a number of alterations to accommodate a high level of public contact and the needs of an elderly clientele.

GSA monitored the use of this expedited leasing process for the 13-month period ended September 30, 1992, and found that it was used to award 280 leases in an average of about 57 days. GSA believes that the expedited process has been successful in reducing the amount of time it takes to award a lease. However, GSA has not determined this new expedited

process' overall effectiveness in reducing the total amount of time it takes to deliver occupiable space to the requesting federal agency. Also, GSA did not determine how often it could have used this expedited leasing process during that 13-month period.

It should be noted that GSA no longer tracks or measures its overall leasing performance in terms of the elapsed times between agencies' requests for space and agencies' receipt of GSA-delivered space. Thus, GSA lacks complete data on its actual overall leasing performance, and it is not possible to compare its leasing performance today with the past. As part of its agencywide efforts under Total Quality Management to improve the responsiveness and quality of its mission-support services to federal agency customers, GSA began emphasizing a goal of delivering space when agencies actually need it and tracking its performance in meeting these goals.

Second, GSA has begun developing a realty database using market information gathered by GSA's appraisers. Although GSA's appraisers gather information similar to that gathered by commercial brokers, the data has been stored only in hard copy, making it difficult and awkward for GSA's realty specialists to use effectively. Thus, realty specialists typically get space availability and lease cost information by doing a market survey, which involves physically visiting the area and buildings where space is sought and talking with building representatives to get the needed information. In 1992, GSA instructed its regional office staff to begin automating the data so that its realty specialists would have easy access to local market information, thereby improving their knowledge of market conditions. As of May 1994, GSA had automated some data in 4 of its 11 regions. However, GSA has put further automation efforts on hold until it finalizes its plans for incorporating NPR's recommended principles into its leasing program.

Third, GSA has experimented with contracting for commercial brokers' services. GSA's Philadelphia region has contracted with a nationwide brokerage company that specializes in representing tenants to provide space planning, appraisals, inspections, and real estate consulting services (such as market surveys, financial analysis, and technical support). Under this contract, the company was required to conform to all federal leasing rules and procedures. A key anticipated benefit was to use the private company to supplement GSA's in-house staff when heavy workloads caused backlogs and prevented GSA from responding to agency needs in a timely fashion.

According to a responsible GSA official, the region has used the private company primarily for appraisals and does not feel that the contract significantly reduced its leasing workload. GSA is leery of using the company to negotiate rates because of concerns about the potential for conflicts of interest. For example, GSA said that it would be highly vulnerable to a bid protest if the company awarded a GSA lease to an acquaintance and could not fully demonstrate that the deal was fair to all competing landlords. Also, GSA officials said that they were not satisfied with the results of earlier contracts the agency awarded to commercial brokers in its Kansas City region in 1990 and its Fort Worth region in 1987. GSA felt that these brokers did not adequately understand federal procurement requirements.

These three GSA initiatives are steps in the right direction. However, they have not yet resolved federal agencies' or the commercial real estate community's frustrations with GSA's leasing process. In a July 1993 testimony before the Subcommittee on Oversight of Government Management, Senate Committee on Governmental Affairs, the International Building Owners and Managers Association noted that commercial landlords and brokers remain frustrated by GSA's complicated and convoluted real estate process, which discourages competition for federal leases.

In this regard, GSA recently acknowledged that its adherence to the overall federal procurement process has been a major obstacle in making significant improvements. In April 1993, GSA prepared a plan for "reinventing" GSA in anticipation of NPR's conclusions and recommendations. This plan recognizes the need to reform federal procurement, noting that

"Current statutory focus on process as a means to ensure ethical standards, fairness, economy, and efficiency has, in part, resulted in a system which is highly regulated, customer insensitive, slow to innovate, and slower to deliver."

The plan concludes

"... concepts of full and open competition, level playing field, maximizing sources, and removing barriers to competition reflect the system's dominant concern with fairness to potential offerors. Although fairness is certainly an important value in public management, it may become an impediment to effective management when it places contractor's interests ahead of the purchaser and the taxpayer."

In its October 19, 1994, letter providing written comments on a draft of this report (See app. I.), GSA identified two additional actions it has taken to improve its leasing process. These actions are (1) changing its method of measuring space to conform with typical private sector practice and (2) reducing some procedural controls over leasing that are within its existing administrative authority.

Prior to June 1, 1994, GSA acquired space using the “net usable” measurement system, as opposed to the “rentable” measurement system typically used by the private sector. Effective June 1, 1994, GSA began to acquire space using the local “rentable” measurement system. GSA pointed out that the rentable measurement system produces a lower square-foot rental rate than the net usable measurement system. According to GSA, the GSA vs. private sector leasing value comparisons made by commercial landlords and brokers and private industry realty managers, which were discussed in chapters 2 and 3 respectively, may not have taken into account the different methods of measurement previously used by GSA and the private sector. Also, GSA said it did not believe that the commercial landlords and brokers we contacted took into account that GSA for over 20 years has been a leader in the implementation of laws and regulations and agency initiatives that require accessibility to the handicapped and adherence to strict fire and life safety standards in leased space. GSA acknowledged that these requirements often increase its leasing costs but said that they provide a value and quality of space that is expected and appreciated by its customer agencies.

A few of the commercial landlords and brokers and private industry realty managers we contacted specifically mentioned GSA’s method of measuring space and its strict building accessibility and fire and life safety standards as factors that contribute to GSA paying higher lease rates. Typically, however, the landlords, brokers, and realty managers we contacted included individual factors such as these as part of their overall criticism of GSA’s lengthy and confusing lease solicitations and standard lease clauses. Accordingly, we summarized their overall criticisms in the draft report that GSA commented on and did not specifically mention space measurement differences, fire/life safety standards, or other individual contributing factors.

Additionally, GSA’s October 19, 1994, letter pointed out that, in the 1990s, it has reduced, not increased, procedural controls that are within its authority. For example, GSA said that it has (1) increased the dollar threshold for leases that require GSA Inspector General review from

\$200,000 annual rent to \$1 million annual rent in its National Capital and San Francisco regions and to \$400,000 annual rent in all other regions and (2) eliminated the requirement for Office of Acquisition Policy, Office of General Counsel, and regional acquisition management staff preaward reviews of proposed leases. However, GSA emphasized that there have been no reductions in procedural controls that are mandated outside of the agency and that it has seen no movement toward such reductions. In chapters 2 and 5 of this report, we acknowledge that such externally imposed procedural controls also exist and need to be reexamined. In addition, we recognize in chapter 2 that NPR was especially critical of excessive federal procurement system rules, regulations, and procedural controls. Later in this chapter, we discuss recently enacted legislation that may encourage and facilitate reductions in procedural controls and improvements in GSA's leasing process.

GSA's Initiatives in Response to NPR

In response to NPR, GSA committed itself to and developed plans for ending its long-standing service monopolies, separating its policymaking and oversight responsibilities from service delivery, revising its organization to improve how it interfaces with customer agencies, and using private sector practices as benchmarks to reengineer the way it does business.

Also in response to NPR, GSA proposed total cost savings of \$693 million in the leasing area in its March 1994 report on the results of its "Time Out and Review" of major approved public building new construction, modernization, and leasing projects. Of 64 leasing projects that GSA reexamined under its time out and review initiative, it proposed savings reductions on 26 of them—2 had savings of \$103 million from lease cancellation, 19 had savings of \$590 million from leased square footage reductions, and 5 had savings that are to be determined through renegotiation. Also, GSA identified 19 major space requirements now satisfied by leased space where it believes that conversion to government ownership should be considered because it potentially could save hundreds of millions of additional federal dollars.

GSA has committed to "reinventing" itself so that it can provide better services to its client agencies and, ultimately, the taxpayer. Leasing is one area where GSA is exploring needed changes and alternative ways of doing business to more fully satisfy federal agencies' mission-support needs. Two of its regional offices—Denver, CO and Auburn, WA—are involved in this effort. Within the limitations of the Competition in Contracting Act (CICA) and other statutory provisions, GSA has empowered these two

regional offices to identify and experiment with various leasing innovations. GSA's objective is to collect enough data to document and validate the success or failure of each effort, identify specific factors that affected its success or failure, and determine which innovations worked.

When these reinvention laboratory efforts began in September 1993, responsible GSA officials said that each new and existing lease would be considered as a potential candidate for testing specific changes in its traditional leasing process and standardized lease solicitations and agreements. Aspects of GSA's leasing process that it has identified for testing include (1) waiving certain General Services Acquisition Regulation provisions, (2) reducing required documentation, (3) simplifying transaction forms, (4) working closer with federal agencies to develop their space requirements, and (5) delegating lease acquisition authority to selected federal agencies. Also, GSA plans to test private sector practices for leasing space. GSA regional participants said that it will take at least 2 years to accumulate enough evidence for GSA to draw any meaningful conclusions from these experiments.

To date, the Denver region's reinvention efforts have focused on analyzing GSA's leasing process from three perspectives—federal customer agencies, the commercial real estate community, and GSA's guiding policies and procedures. The region has used surveys, focus groups, and meetings to better identify and understand federal agencies' space needs. Similarly, the region has interviewed several local real estate brokers and private developers to discuss GSA's leasing process and how it can/should be improved. Finally, the region has examined GSA's traditional leasing policies, procedures, and practices and researched the basis for each GSA step in the leasing process.

According to an interim paper that the Denver region prepared in April 1994, its reinvention efforts to date have produced promising results. For example, the region reported reductions in the time required to complete major leasing steps, such as developing space requirements, surveying the marketplace, and preparing and negotiating the solicitation for offers. Also, the region reported benefits from the use of space layout drawings in lieu of the traditional quantified narrative requirements to communicate agencies' space customizing requirements to lessors. In the policies and procedures area, the region found that most GSA leasing steps are not required by law but have evolved from past GSA practices. In this regard, the region concluded that GSA has continued to follow many of these institutional practices because they were convenient, and GSA

employees—from regional realty specialists to central office legal counsel—had become comfortable with them. The region already has begun testing some process reengineering proposals and is considering the use of several others.

As part of its reengineering efforts, GSA reorganized its Public Buildings Service (PBS) along business lines effective January 8, 1995, to separate its policymaking/oversight and service provider responsibilities and help facilitate the delivery of real estate services to federal agencies. PBS's new organizational structure consists of (1) three policy and oversight components—Governmentwide Real Property Policy, Portfolio Management, and Business Development; (2) five service provider components—Property Management, Commercial Broker, Fee Developer, Federal Protective Service, and Property Disposal; and (3) three support components—Controller, Chief Information Officer, and Acquisition Executive. GSA's leasing of federal office space is now handled by the Office of the Commercial Broker.

Also in January 1995, in response to the President's recent initiative to reduce the size of government and realize long-term cost savings, GSA announced plans to accelerate and broaden its ongoing reengineering efforts. GSA committed itself to identifying the most cost-effective method of carrying out each of its assigned mission-support responsibilities, including leasing, and seeking the authority to implement the most cost-effective solution. Also, GSA identified a number of potential internal and governmentwide long-term cost-savings opportunities in various support services areas and plans to establish—by October 1, 1995—a separate Office of Policy and Oversight to strengthen its capability to carry out governmentwide policy and oversight functions.

Recent Legislation May Encourage and Facilitate Improvements in GSA's Leasing Process and Performance

The Federal Acquisition Streamlining Act of 1994 provides some of the tools needed to begin addressing the underlying problems with GSA's leasing process that are discussed in this report. This act (P.L. 103-355, enacted on Oct. 13, 1994) authorizes simplified acquisition procedures for leases having an average annual rent of \$100,000 or less and could result in performance improvements for GSA. Also, the act would entitle losing offerors to debriefings after an award, and these debriefings may reduce the number of bid protests. Furthermore, the act seeks to enhance the federal acquisition process through a wide-ranging set of performance-based management goals and incentives. However, GSA believes that two additional provisions that congressional conferees

eliminated from the original legislative proposal—a succeeding lease provision and a two-step contracting provision that GSA intended to apply to its lease construction activities—could have facilitated further improvements in its performance.

Finally, GSA could experiment with any needed related changes in federal procedural requirements and controls under the Government Performance and Results Act of 1993—P.L. 103-62. This act authorizes pilot projects for better performance goals and measurements and for increased managerial accountability and flexibility. GSA has been designated by OMB as one of the pilot agencies for performance plans and program performance reports and likely will also be a pilot agency for managerial accountability and flexibility. Under the act's managerial accountability and flexibility provisions, established administrative procedural requirements and controls can be waived for up to 3 years, in return for specific accountability to achieve a designated performance goal. Participating federal agencies will have to demonstrate the expected effects on their performance resulting from greater flexibility, discretion, and authority and the improvements in performance resulting from the waiver. The expected improvements are to be compared to current and projected performance without the waiver. After 3 years, the agency can propose that the waiver be made permanent.

Conclusions, Recommendations, and Agency Comments

Conclusions

In today's commercial real estate market, good leasing opportunities come and go quickly, and getting a good value depends on being postured to seize market opportunities as they become available. However, the General Services Administration's (GSA) highly prescriptive and process-oriented leasing approach—grounded in federal procurement law, uniformity, and numerous well-intended procedural controls added over the years—has become at odds with the dynamic commercial real estate market. It impedes GSA's ability to get good, timely leasing values and may be causing the government to pay more than is necessary for leased space.

Over the years, GSA's leasing policies, procedures, and practices have become preoccupied with process at the expense of results, as numerous procedural controls were added to help (1) safeguard the government's interests; (2) ensure compliance with federal procurement laws and regulations and other national policies; and (3) minimize fraud, abuse, and the number of bid protests. These goals are important, but the cumulative result of these well-intended procedural controls is a time-consuming and costly leasing process that does not work very well in today's competitive commercial real estate market. GSA has begun reducing procedural controls that are within its authority but continues to focus primarily on process rather than results.

In contrast, the more results-oriented approach that private sector firms typically use is much simpler, more flexible, and takes less time. The private realty managers and commercial landlords and brokers we contacted generally believe that this approach results in better overall leasing values. Although there is no standard private industry leasing model, and practices differ from firm to firm, the practices of the 12 private firms we contacted share several common characteristics that help them take advantage of available market opportunities and lease space quickly. For example, these private firms

- are focused almost exclusively on results,
- take a flexible and pragmatic approach and rely on the market expertise of their in-house realty staffs or on commercial brokers to lease space,
- are willing to modify their requirements to conclude an advantageous deal expeditiously,
- aggressively seek and negotiate bargains and concessions from landlords, and
- minimize the number and nature of internal reviews of proposed leases.

GSA recognizes the need to improve the timeliness and cost effectiveness of its leasing process, has already adopted streamlined procedures for certain small leases, and is exploring other changes in response to the National Performance Review (NPR) and the President's recent initiative to reduce the size of government and realize long-term cost savings. Administratively, GSA could change some aspects of its leasing process that seem to discourage competition for its leases, impede timely space delivery, and contribute to higher than necessary federal leasing costs. For example, GSA could (1) simplify and streamline its standard lease solicitation and lease agreement, (2) adopt the private sector practice of negotiating a tenant improvement or space build-out allowance, and (3) finish developing a complete and useful automated realty database on commercial real estate market activities and prices. Such changes would be steps in the right direction. Alone, however, such changes would not (1) fully and effectively resolve the long-standing, systemic leasing problems discussed in this report or (2) result in significant improvements in the overall timeliness, responsiveness, and cost effectiveness of GSA's leasing activities.

We believe that a more timely, responsive, and cost-effective GSA leasing process will require fundamental changes in the traditional federal leasing paradigm, GSA's organizational culture, and its role in meeting agencies' office space needs. GSA will need to reengineer its leasing process and implement policies and procedures to achieve those results and improve its overall leasing performance and responsiveness. In this regard, private industry leasing practices, such as those of the 12 private firms discussed in chapter 3, deserve consideration. These leasing practices may provide ideas for streamlining and simplifying GSA's leasing process and making it more responsive to federal agencies' mission-support needs and a better value for taxpayers. These practices could be tested to evaluate their benefits, risks, and potential federal application. GSA could seek legislative authority from Congress to test any alternative leasing practices for which it determines that such authority would be required. Any needed changes in federal procedural requirements and controls could be tested under the managerial accountability and flexibility provisions of the Government Performance and Results Act (GPRA).

Federal agencies and the commercial real estate community have an important stake in GSA's leasing policies, procedures, and practices. They can help GSA identify key problem areas and the most critical "pain points," design needed improvements, and test and evaluate possible solutions. In

the interim, while long-term improvements are being considered and tested, GSA could delegate more of its leasing authority to other federal agencies, as it has successfully done in the buildings management area. This could help mitigate the negative effects of GSA's monopoly by providing the stimulus of competition and alternative experiences from which GSA and other federal agencies could learn.

Finally, the federal laws, regulations, and other national policies that now influence GSA's leasing process, especially the Competition in Contracting Act (CICA) and other statutory provisions, will need to be reexamined. The recently enacted Federal Acquisition Streamlining Act provides some of the tools needed to begin reengineering GSA's leasing activities and making them more businesslike. However, this act was not designed to and did not address all the leasing problems identified in this report.

Recommendations to the Administrator of GSA

We recommend that the Administrator of GSA fully explore opportunities to simplify and streamline GSA's leasing process and make it less costly and time consuming, more responsive to federal agencies' mission-support needs, and a better value for taxpayers. In this regard, GSA should

- work closely with federal customer agencies and the commercial real estate community to more fully explore their concerns about the existing leasing process, identify alternative ways of carrying out the leasing function, and test and evaluate their use and potential adoption;
- test the benefits, risks, and potential federal application of the private industry leasing practices discussed in chapter 3 of this report that are within its authority and seek the necessary authority from (1) Congress to test other practices and alternatives that GSA believes would require legislation and (2) the Office of Management and Budget to test any needed changes in federal procedural requirements and controls under the managerial accountability and flexibility provisions of GPRA; and
- adopt administratively or, if GSA determines that legislation is needed, propose to Congress the necessary legislation to enable it to adopt those private industry practices or other alternatives tested that result in documented improvements in GSA's leasing performance, make sense, and are cost effective.

In addition, GSA should

- reexamine its standard lease solicitation and lease agreement clauses and provisions and eliminate any of those within its administrative authority that are no longer needed, are of questionable utility, or are seldom used;
- within the limitations of CICA and other statutory provisions, empower and encourage its leasing officials to modify lease clauses and provisions as necessary and negotiate aggressively with prospective landlords for bargains and concessions to obtain good, timely leasing values;
- adopt the private sector practice of negotiating a specified dollar per square foot tenant improvement or space build-out allowance to eliminate the uncertainties and perceived added risks associated with GSA's existing process and help hold down leasing costs;
- finish developing and implement an automated realty database on commercial real estate leasing activities and rates to help leasing officials evaluate the reasonableness of landlords' proposed offers; and
- establish performance goals for its leasing activities and measurement systems to track progress in meeting those goals.

While long-term improvements are being considered and tested, GSA should delegate more leasing authority to federal agencies that are ready, willing, and able to lease their own office space and monitor and oversee agencies' use of that delegated authority.

Agency Comments

In written comments dated October 19, 1994, on a draft of this report, GSA agreed with its general thrust and said that it highlights the problems that hamper effective delivery of space. Except for the recommendation on space build-out, GSA also generally agreed with the thrust of the recommendations and said it will address them as part of ongoing efforts to reengineer its overall real estate program. However, GSA said that our recommendations cannot be fully implemented unless Congress grants it an exemption from CICA and other existing statutory constraints. Finally, GSA provided comments on several statements in the draft report and updated information on its leasing program and reengineering efforts, which we have included in this report where appropriate. GSA's written comments are reproduced in appendix I.

GSA stressed that, under present law, it cannot carry out leasing as would a private sector tenant. For example, GSA emphasized that it must comply with CICA and a host of other statutory constraints and that the costs of such compliance are time and money. GSA pointed out that these costs are not borne by the private sector against which it is being compared. We

agree that the federal laws, procurement regulations, and other national policies that now guide and influence GSA's leasing process, especially CICA, will need to be reexamined. In the draft report that GSA commented on, we recognized these statutory provisions and acknowledged that administrative changes, alone, will not fully and effectively resolve the identified leasing problems or result in significant improvements in the overall timeliness, responsiveness, and cost effectiveness of GSA's leasing activities. As a consequence, we recommended that GSA seek the necessary authority from Congress to (1) test those private industry leasing practices and other leasing alternatives that it believes would require legislation and (2) adopt those practices or other alternatives tested that result in documented leasing improvements, make sense, and are cost effective. We have retained these same recommendations in this report.

Within the limitations of CICA and other statutory constraints, GSA said that it has already addressed many of the leasing problems discussed in this report and is in the process of reengineering its overall real estate program to (1) improve the quality of service to customer agencies, (2) make it easier for building owners to do business with the government, and (3) improve cost effectiveness. According to GSA, the target date for initiating its new real estate program is January 1995.¹ In the leasing area, GSA said that several reinvention labs have been organized to test alternative ways of acquiring leased space. Also, GSA said that its reengineering efforts are emphasizing the consideration and testing of private industry practices and that, within the limitations of CICA and the other statutory and regulatory constraints, it will (1) reexamine its standard lease solicitation and lease agreement with the goal of more streamlining, (2) extend the authority of its leasing officials to modify lease clauses and provisions to get better values, (3) research the availability of data on commercial real estate leasing activities and rates for use on a nationwide or regional level, and (4) address the development of performance goals and measurement systems for its leasing activities.

Concerning the recommendation on space build-out, we believe that GSA may have misunderstood our intent. Our draft report recommended that GSA adopt the private sector practice of negotiating the costs of space build-out. In its written comments on this recommendation, GSA acknowledged that it expects landlords to estimate the costs of build-out without architectural plans but said that its existing space build-out methodology limits the landlord's risks. GSA said that it negotiates with the

¹As acknowledged in chapter 4, GSA reorganized its Public Buildings Service along business lines effective January 8, 1995, to separate its policymaking/oversight and service provider roles and improve its delivery of real estate services.

lessor the estimated scope and unit costs of build-out and that both of these are included in the lease. GSA said that, upon completion of build-out, the lessor is paid a lump sum amount to cover any construction build-out above the negotiated scope or the government receives a credit if the scope of build-out is less than the level provided for in the lease.

According to GSA, the alternative to this methodology would be to prepare architectural plans for each offeror, which would both further slow the leasing process and add costs that could not be expected to be recovered in the lease.

In recommending that GSA adopt the private sector practice of negotiating the costs of space build-out, we did not intend that GSA prepare architectural plans for each offeror or even for each space build-out requirement. As discussed in chapters 2 and 3, the typical private sector practice is to negotiate a specified dollar per square foot tenant improvement or space build-out allowance that places a limit or cap on the landlord's share of such costs. Under this approach, the landlord is not required to estimate the actual costs associated with any specified level of build-out. Several of the commercial landlords and brokers we contacted were specifically critical of GSA's existing process that requires landlords to estimate and bid on the costs of space build-out and said that it is one of several factors that cause GSA to pay more than necessary for leased space. These landlords and brokers said that GSA's space build-out procedures add costs, time, and uncertainty to the leasing process and transfer risk to the landlord. To compensate for these uncertainties and perceived added risks, many of the landlords and brokers we contacted said that they increase their proposed rental rates to GSA. Accordingly, we recommended in the draft report, and continue to believe, that GSA should adopt the private sector approach to space build-out. Most commercial landlords and brokers and private sector realty managers we contacted said that the private sector approach simplifies the lease negotiation process, saves time, and helps hold down leasing costs. In view of GSA's written comments, we have reworded this recommendation to clarify our intent.

Finally, GSA's written comments did not address our last recommendation that, while long-term improvements are being considered and tested, it delegate more leasing authority to federal agencies that are capable of and willing to lease their own space. In subsequent discussions, responsible GSA officials said that GSA declines to take a position on this recommendation at this time. According to these officials, GSA will (1) take a position on this recommendation after it has implemented its new real estate program in January 1995 and (2) include that position in its formal

response to the House Committee on Government Reform and Oversight, Senate Committee on Governmental Affairs, and House and Senate Committees on Appropriations on this report. It should be noted that the NPR report on Reinventing Support Services recommended that GSA delegate to all federal agencies the authority to lease their own general-purpose space as part of giving agencies greater authority to choose their sources of real property services.

Comments From the General Services Administration



Administrator
General Services Administration
Washington, DC 20405

October 19, 1994

The Honorable Charles A. Bowsher
Comptroller General
of the United States
General Accounting Office
Washington, DC 20548

Dear Mr. Bowsher:

Thank you for the opportunity to respond to the General Accounting Office's (GAO's) report entitled "Federal Office Space: Businesslike Practices Could Improve GSA's Leasing Process" which was forwarded to us by Mr. J. William Gadsby with his letter of August 31, 1994. The report advocates a simpler, more flexible leasing process using a commercial approach with fewer reviews and controls.

The general thrust of the report is in agreement with the General Services Administration's (GSA's) current real estate efforts. In fact, the report highlights the very problems which GSA itself believes hamper effective delivery of space. Many of these processes and problems GSA has already addressed; however, under present law, GSA cannot conduct its leasing as would a private sector tenant. For example, GSA must comply with the Competition in Contracting Act (CICA) and a host of other statutory constraints. The costs of compliance are time and money. These costs are not borne by private sector transactions against which GSA is being compared. If GSA does not comply with these constraints, there are a host of judicial and non-judicial forums, including GAO, which are willing to step in and ensure compliance. Unless GAO is willing to advocate an exemption from CICA and other statutory constraints, your fundamental recommendations cannot be implemented.

Within the limitations of CICA and the other statutory constraints, GSA is in the process of reengineering its real estate program to 1) improve the quality of service to customer agencies, 2) make it easier for building owners to do business with the Government, and 3) improve cost effectiveness. These reengineering efforts are involving GSA customer agencies, the private sector commercial real estate community, and GSA employees. Several GSA lease



See pp. 7
and 47-48.

See pp. 40-42 and 47-48.

**Appendix I
Comments From the General Services
Administration**

See pp. 40-42
and 47-48.

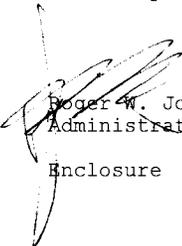
-2-

labs have been organized to test alternative ways of acquiring leased space. The target for initiating GSA's new real estate program is January 1995.

Our comments on your specific recommendations are attached. Comments are also offered on a number of statements in the text of the report. We hope that these comments will provide a greater understanding of the GSA leasing program and assist in the completion of the final report.

GSA appreciates the time and effort that the General Accounting Office has expended in developing this report on our leasing process. This agency looks forward to working with your staff on further improving the management of GSA.

Sincerely,



Roger W. Johnson
Administrator

Enclosure

**Appendix I
Comments From the General Services
Administration**

Comments on Draft GAO Report
"Federal Office Space: Businesslike Practices Could Improve
GSA's Leasing Process"

RECOMMENDATION

We recommend that the Administrator of GSA fully explore opportunities to simplify and streamline GSA's leasing process and make it less costly and time consuming, more responsive to federal agencies' mission-support needs, and a better value for taxpayers. In this regard, GSA should work closely with federal customer agencies and the commercial real estate community to more fully explore their concerns about the existing leasing process, identify alternative ways of carrying out the leasing function, and test and evaluate their use and potential adoption.

AGENCY COMMENT

We agree with this recommendation and GSA is currently in the process of reengineering its real estate program in order to improve the quality of service to GSA customer agencies, to make it easier for contractors to do business with the Government, and to improve cost effectiveness. These reengineering efforts are involving GSA customer agencies, the private sector commercial real estate community, and GSA employees. Several GSA lease labs have been organized to test alternative ways of acquiring leased space. The target for initiating GSA's new real estate program is January 1995.

RECOMMENDATION

GSA should test the benefits, risks, and potential federal application of the private industry leasing practices discussed in chapter 3 of this report that are within its authority and seek the necessary authority from Congress to test other practices and alternatives that GSA believes would require legislation from OMB to experiment with any needed administrative regulatory changes under the managerial accountability and flexibility provisions of GPRA.

AGENCY COMMENT

We agree with this recommendation and the reengineering of the GSA real estate program is emphasizing private industry practices, as mentioned above. GSA also supports the passage of procurement reform legislation which would provide some of the tools needed in this effort. The Federal Acquisition Streamlining Act of 1994, S. 1587, contains simplified acquisition procedures for leases having an average annual rent less than \$100,000 and would result in

See pp. 40-42
and 44-45.

See pp. 13
and 44-45.

**Appendix I
Comments From the General Services
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performance improvements for GSA. However, the Congress eliminated two additional provisions from the legislation which would have resulted in further performance improvements for GSA -- a succeeding lease provision and a two-step contracting provision which we intended to apply to lease construction.

RECOMMENDATION

GSA should reexamine its standard lease solicitation and lease agreement clauses and provisions and eliminate those that are no longer needed, are of questionable utility, or are seldom used.

AGENCY COMMENT

This has always been our practice to do this and it will continue to be our practice. For example, as referenced in the report, we streamlined the solicitation for certain small leases in 1991. Although many pages of our lease solicitation are necessary for compliance with the Competition in Contracting Act (CICA) and a host of other statutory, Executive order, and external regulatory constraints, as part of reengineering our real estate program, we will reexamine our lease with the goal of a wider application of streamlining.

RECOMMENDATION

GSA should empower its leasing officials to modify lease clauses and provisions as necessary and to negotiate aggressively with prospective landlords for bargains and concessions to obtain good, timely leasing values and encourage them to do so.

AGENCY COMMENT

GSA realty specialists do have the authority to modify a significant percentage of the clauses, provisions, and lease specifications; however, others are strictly controlled as a result of law, Executive order, or external regulation or are standards which have been requested by the customer agency. The reengineered GSA real estate program will seek to extend the ability of specialists to make such modifications for those clauses and provisions within the discretion of GSA.

RECOMMENDATION

GSA should adopt the private sector practice of negotiating the costs of space build-out.

See pp. 21, 36
and 47-48.

See pp. 19-21
and 47-48.

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AGENCY COMMENT

GSA does expect landlords to estimate the costs of build-out requirements without architectural plans. However, to limit the landlord's risk, unit costs for the items necessary to complete that build-out are negotiated with the lessor along with an estimated total number of units, and both of these are included in the lease. Upon completion of the build-out, the lessor is paid a lump sum amount to cover excess units actually used in the construction or the Government receives a credit if fewer units are used in the construction.

The alternative to this system would be to prepare architectural plans for each offeror. This would both slow down the leasing process and add costs that could not be expected to be recovered in the lease.

RECOMMENDATION

GSA should finish developing and implement an automated realty database on commercial real estate leasing activities and rates to help leasing officials evaluate the reasonableness of landlords' proposed offers.

AGENCY COMMENT

We agree with this recommendation and during the reengineering effort, we will be researching the availability of programs for use on a nationwide or regional level.

RECOMMENDATION

GSA should establish performance goals for its leasing activities and measurement systems to track progress in meeting those goals.

AGENCY COMMENT

We agree with this recommendation and the development of performance goals and measurement systems will be addressed during the reengineering process.

See pp. 25-26
and 47-49.

See pp. 47-48.

See pp. 47-48.

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The following comments are also offered on a number of statements in the text of the report. These are not line-by-line comments on the report; however, we hope that they will provide a greater understanding of the GSA leasing program and assist in the completion of the final report.

1. Page 6 - Most private realty managers and commercial landlords and brokers GAO contacted said that the private sector's approach gets overall leasing values that are better than GSA's approach.

AGENCY COMMENT

Prior to June 1, 1994, GSA acquired space using the "net usable" measurement system, as opposed to the "rentable" measurement system typically used by the private sector. After that date, we began to acquire space using the local "rentable" measurement system. We question whether the value comparison made by these realty managers, landlords, and brokers takes into account the different methods of measurement previously used by GSA and private sector. If the same block of space is measured in both net usable and rentable, the rentable rate will be lower.

2. Pages 8 and 32 - The report states that "GSA, over the years, has added numerous procedural controls to its leasing process."

AGENCY COMMENT

The report recognizes that these controls have been added "in response to GAO and Inspector General audits, congressional concerns, ...(for) compliance with overall federal procurement rules and regulations..." etc. and acknowledges that "Such procedural controls are important and useful provided they are balanced with efficiency and effectiveness"

In the 1990's, GSA has reduced procedural controls that are within its authority to do so; however, there have been no reductions in controls that are mandated outside of the agency and we have seen no movement toward such reductions. GSA has increased the dollar threshold for leases requiring IG review from \$200,000 annual rent to \$1 million annual rent in the National Capital Region and the Pacific Rim Region (region 9) and to \$400,000 annual rent in all other regions. Additionally, GSA has eliminated the requirement for Regional Acquisition Management Staff, Office of Acquisition Policy, and Office of General Counsel pre-award reviews of its leases. This indicates a reduction in procedural controls, not an increase.

Now on p. 3.

See p. 39.

Now on pp. 4,
17 and 18.

See pp. 17-18,
and 39-40.

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Now on p. 24.

3. Page 11 - The report states that there was not enough information in GSA appraisals to make comparisons between GSA lease rates and private sector lease rates.

AGENCY COMMENT

See p. 24.

The acceptability of appraisals is determined through the appraisal review process in GSA. Both the appraiser and the reviewer must assume that the market data which is provided to them by private market resources is accurate. The level of documentation required is premised on the training and the knowledge of local market conditions of the reviewer. Therefore, we do not understand the basis for this statement.

Now on p. 4.

4. Page 11 - The report states that 82 landlords and commercial real estate brokers believe that GSA is paying too much for its leases.

AGENCY COMMENT

See pp. 24
and 39.

Our appraisals show that we pay true market prices, usually not more, for the space which we lease. Therefore, it is unclear whether or not the landlords and brokers have taken into account the different methods of measurement previously used by GSA and the private sector. As mentioned above, if the same block of space is measured in both net usable and rentable square feet, the rentable square foot rental rate will be lower. In addition, we do not believe that they have taken into account that GSA has been a leader for over 20 years in the implementation of laws and regulations and agency initiatives which require accessibility and adherence to strict fire and life safety standards in leased space. While these requirements often increase leasing costs, they provide a value and quality of space that is expected and appreciated by our customers.

Now on p. 5.

5. Page 13 - Private firms do not establish highly prescriptive and detailed space specifications and they are able to adjust their requirements to make advantage of good business opportunities.

AGENCY COMMENT

See pp. 2, 7,
19-20, 40-42,
and 47-48.

As stated in response to the recommendation, GSA will seek to reduce the length and complexity of lease solicitations; however, Federal agencies must describe their requirements in a relatively detailed manner for offerors, in accordance with the Competition in Contracting Act. Private firms are not

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subject to the Act and do not have to use the same amount of detail. In addition, the Act does not allow us simply to adjust space requirements when a favorable business opportunity arises without formally amending the solicitation, and in some instances, issuing a new advertisement. Again, private firms are not subject to those requirements.

6. Page 38 - The report states that GSA includes very technical and highly prescriptive noise specifications in its standard SFO.

AGENCY COMMENT

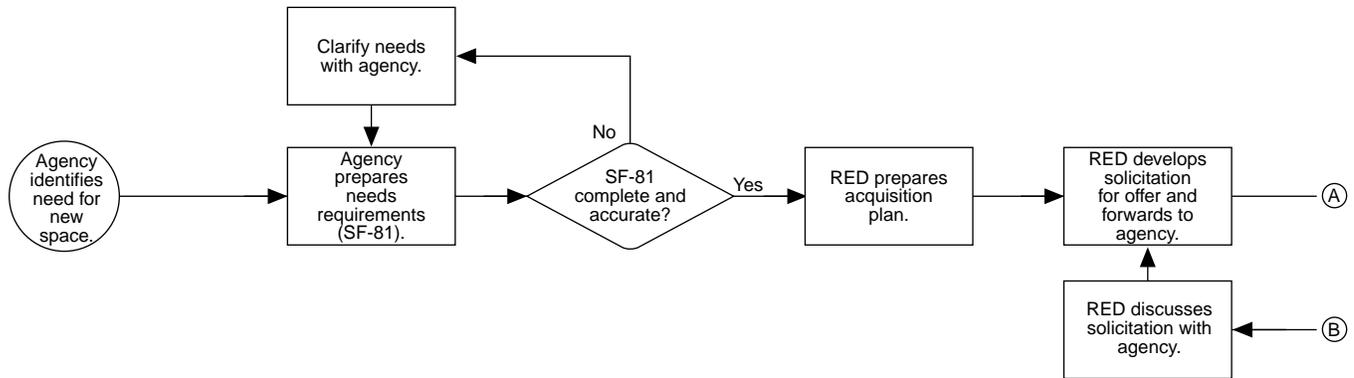
The standard GSA SFO has two simple specifications: ceilings must have a minimum noise reduction coefficient of 0.60 and both ceilings and partitions must have a minimum Sound Transmission Class of 40. These are not unusual requirements or terminology that is foreign to the industry. In fact, they are very common requirements which are meant to meet the general needs of our customers in most office space configurations.

The more prescriptive specifications in the "Acoustic Requirements" paragraph are used only when acoustic requirements are of particular concern to the customer agency.

Now on p. 20.

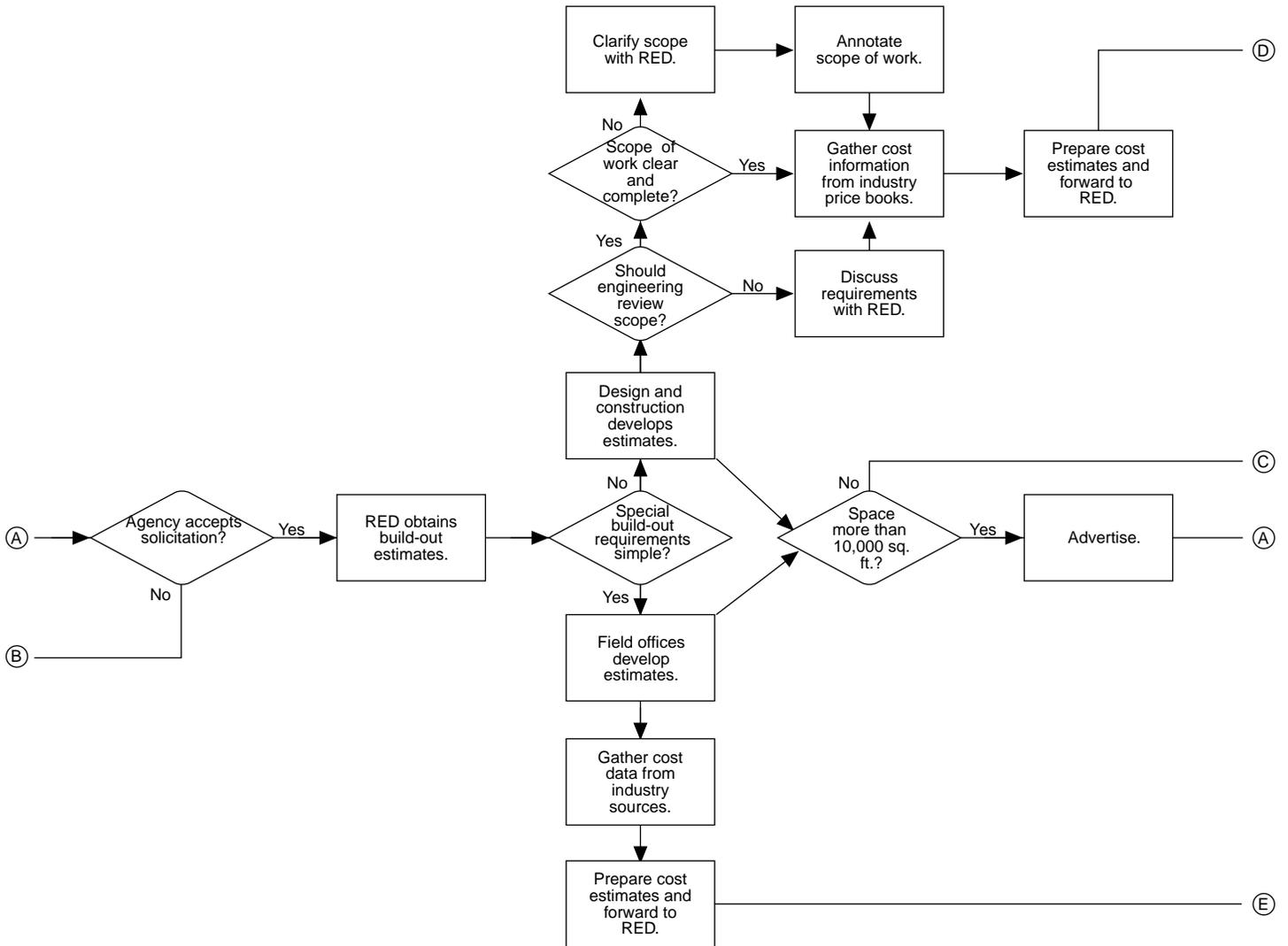
See p. 20.

Flowchart of GSA's Leasing Process

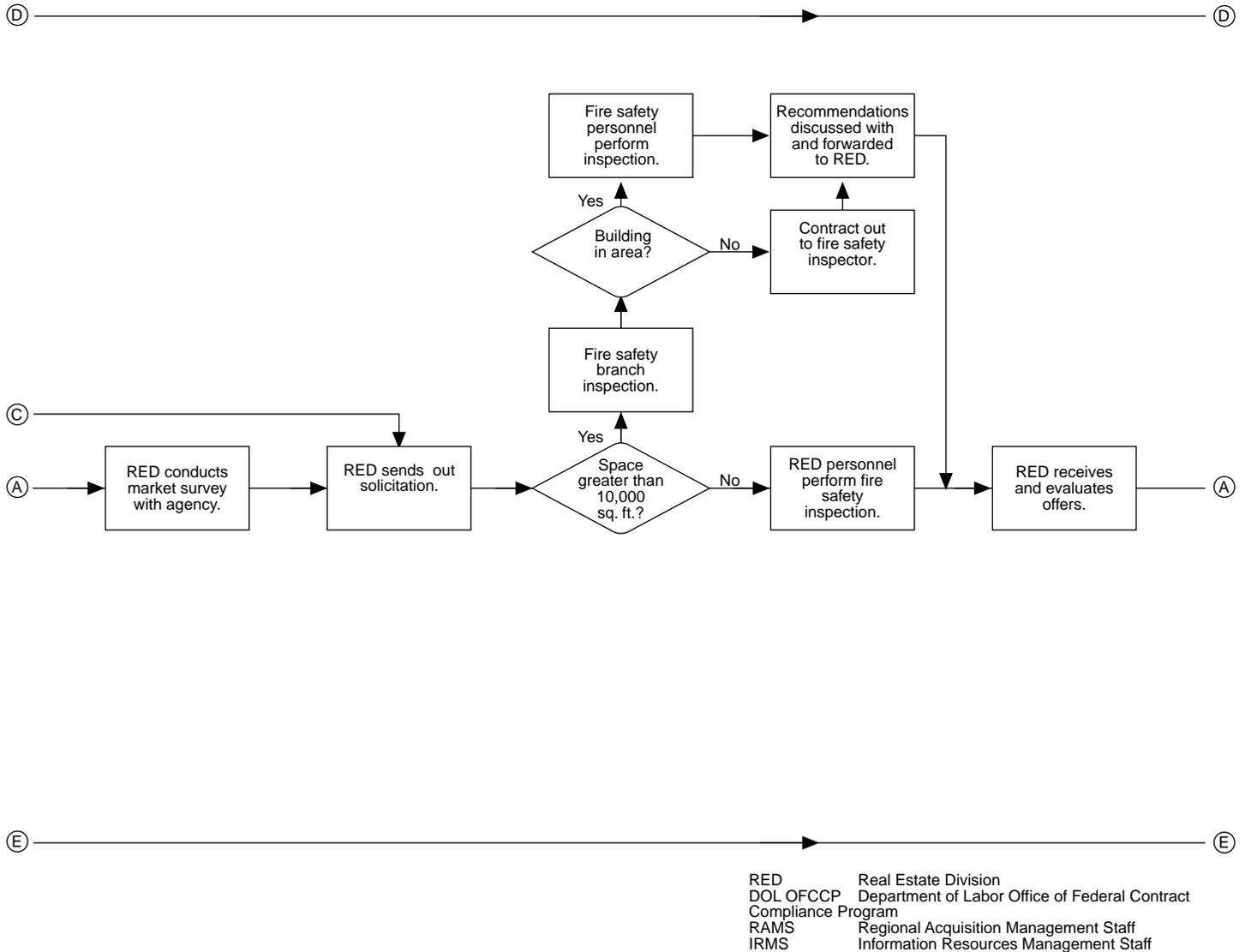


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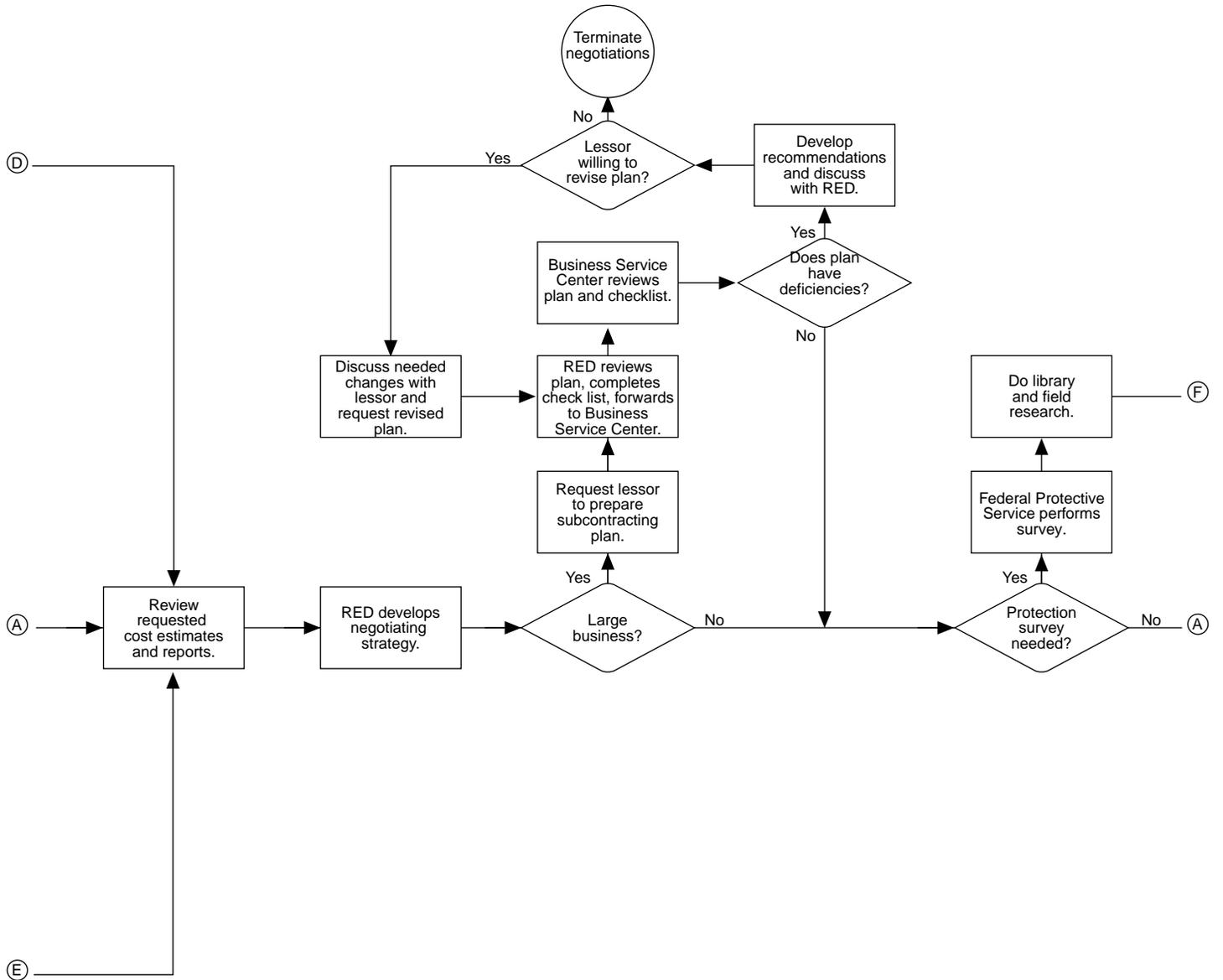
**Appendix II
Flowchart of GSA's Leasing Process**



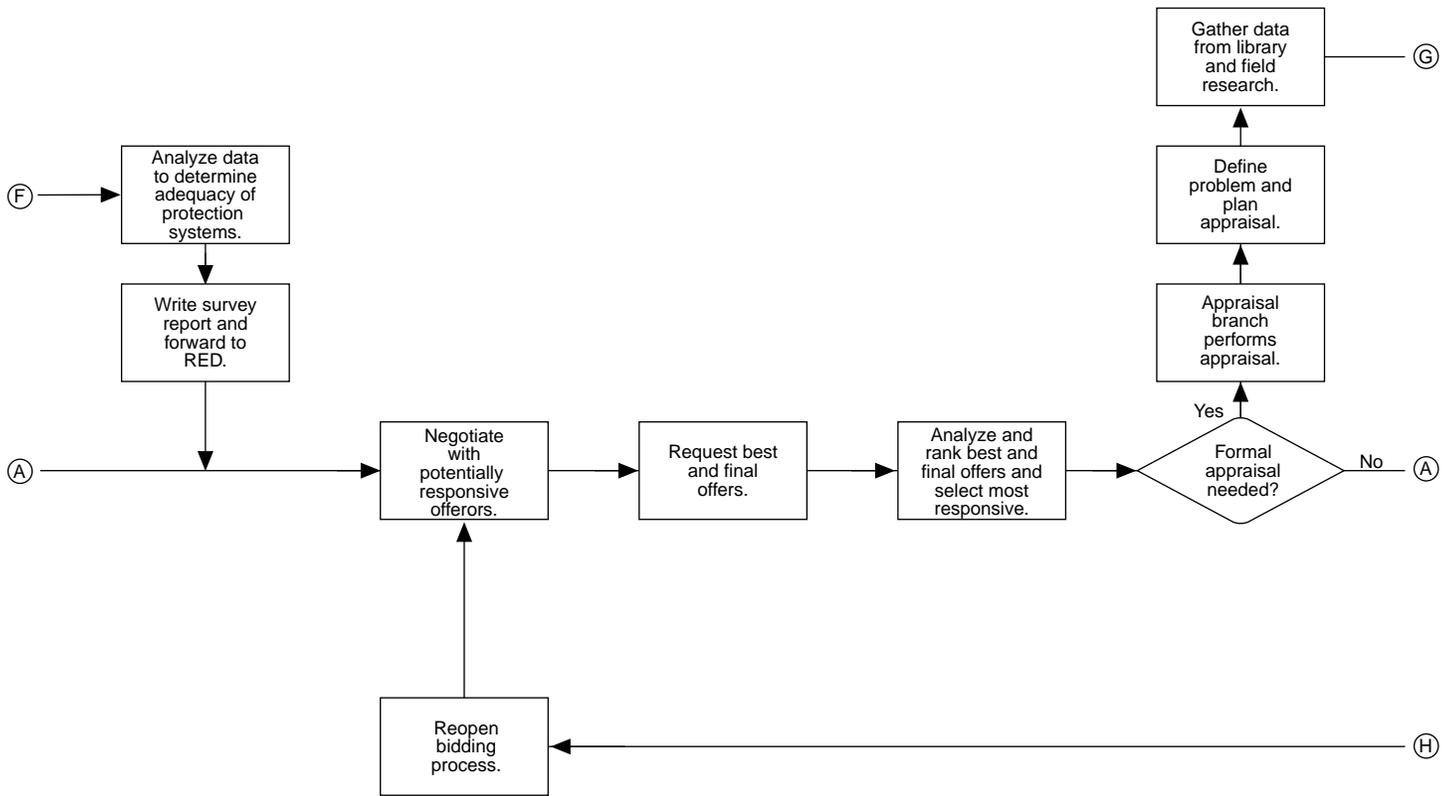
**Appendix II
Flowchart of GSA's Leasing Process**



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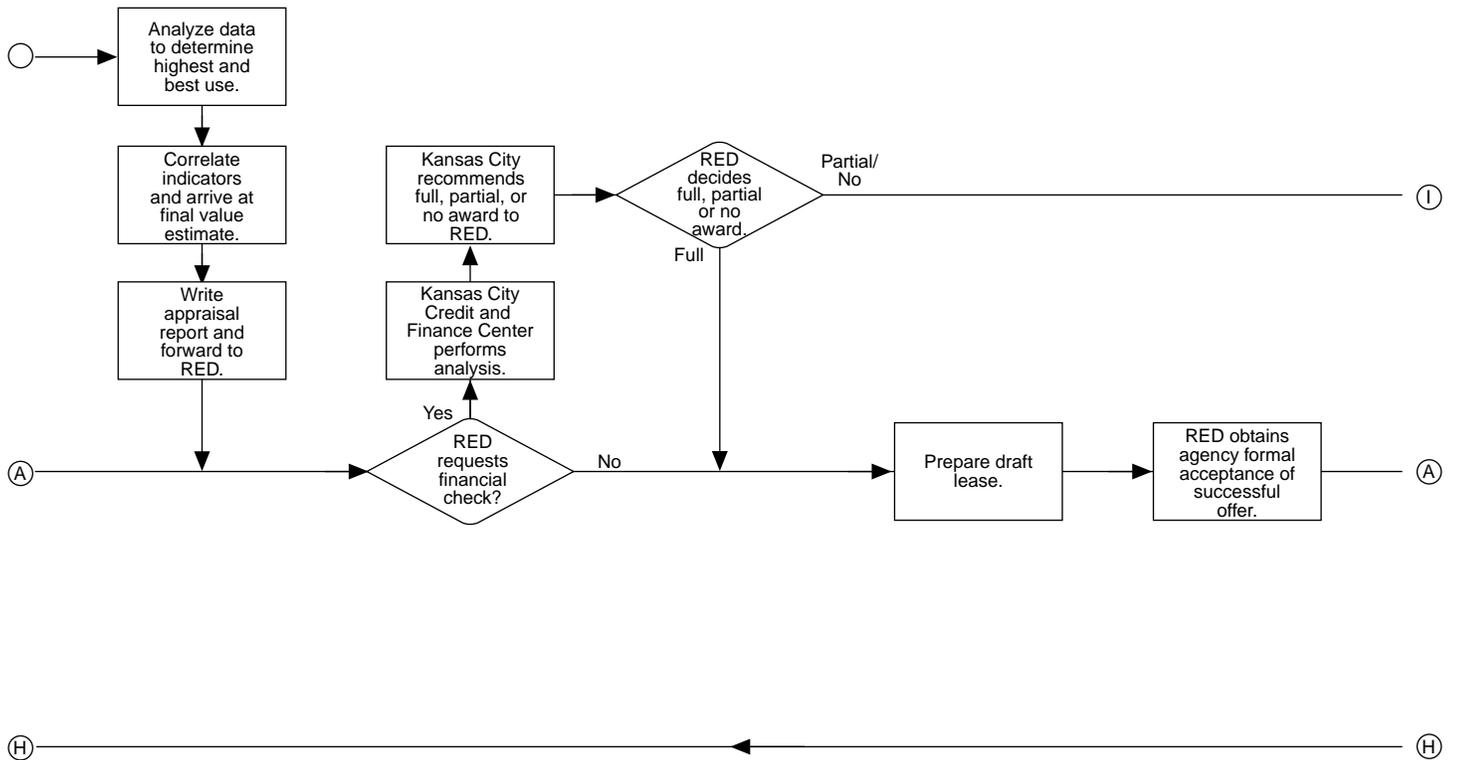


**Appendix II
Flowchart of GSA's Leasing Process**

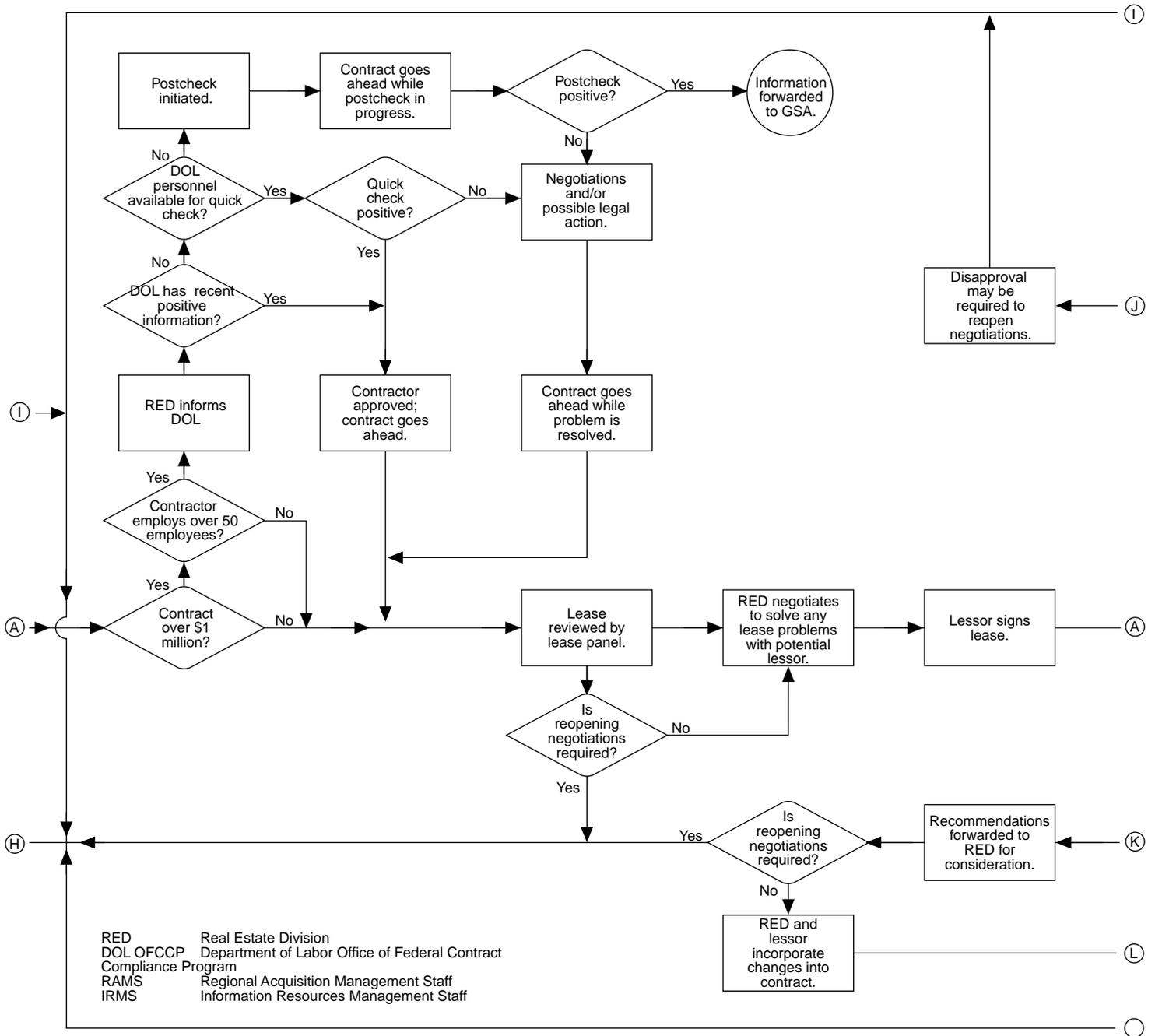


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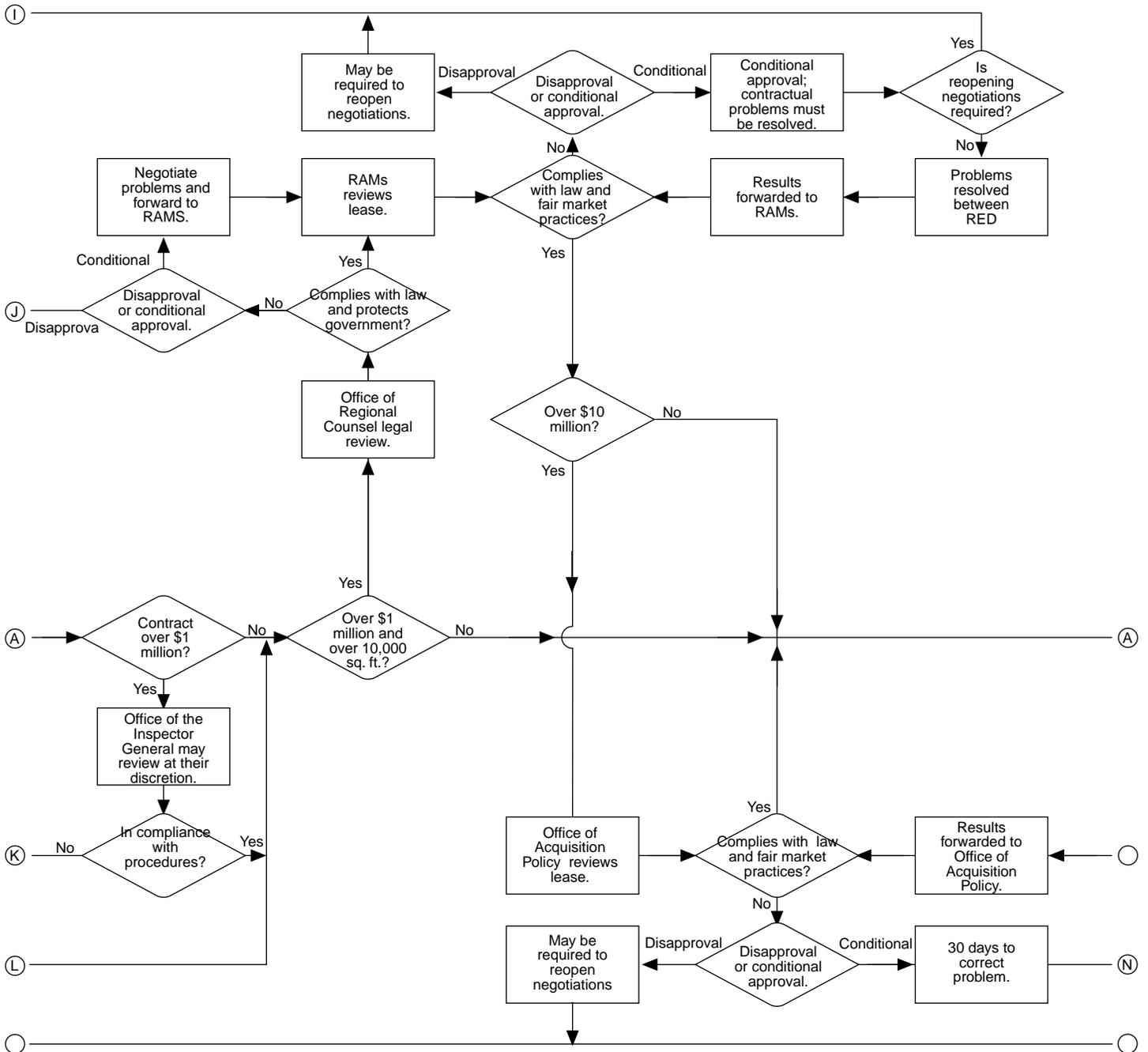
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Flowchart of GSA's Leasing Process**



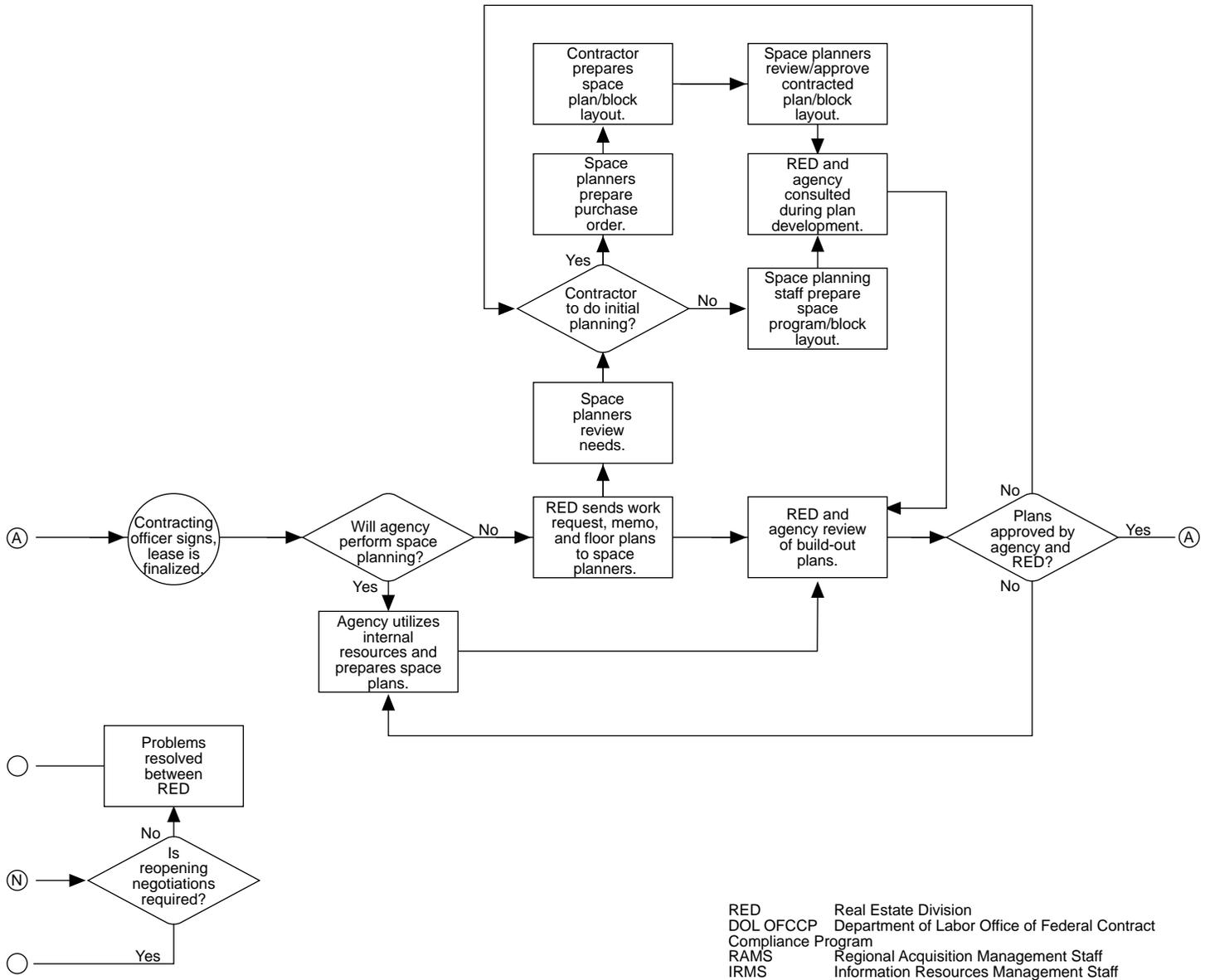
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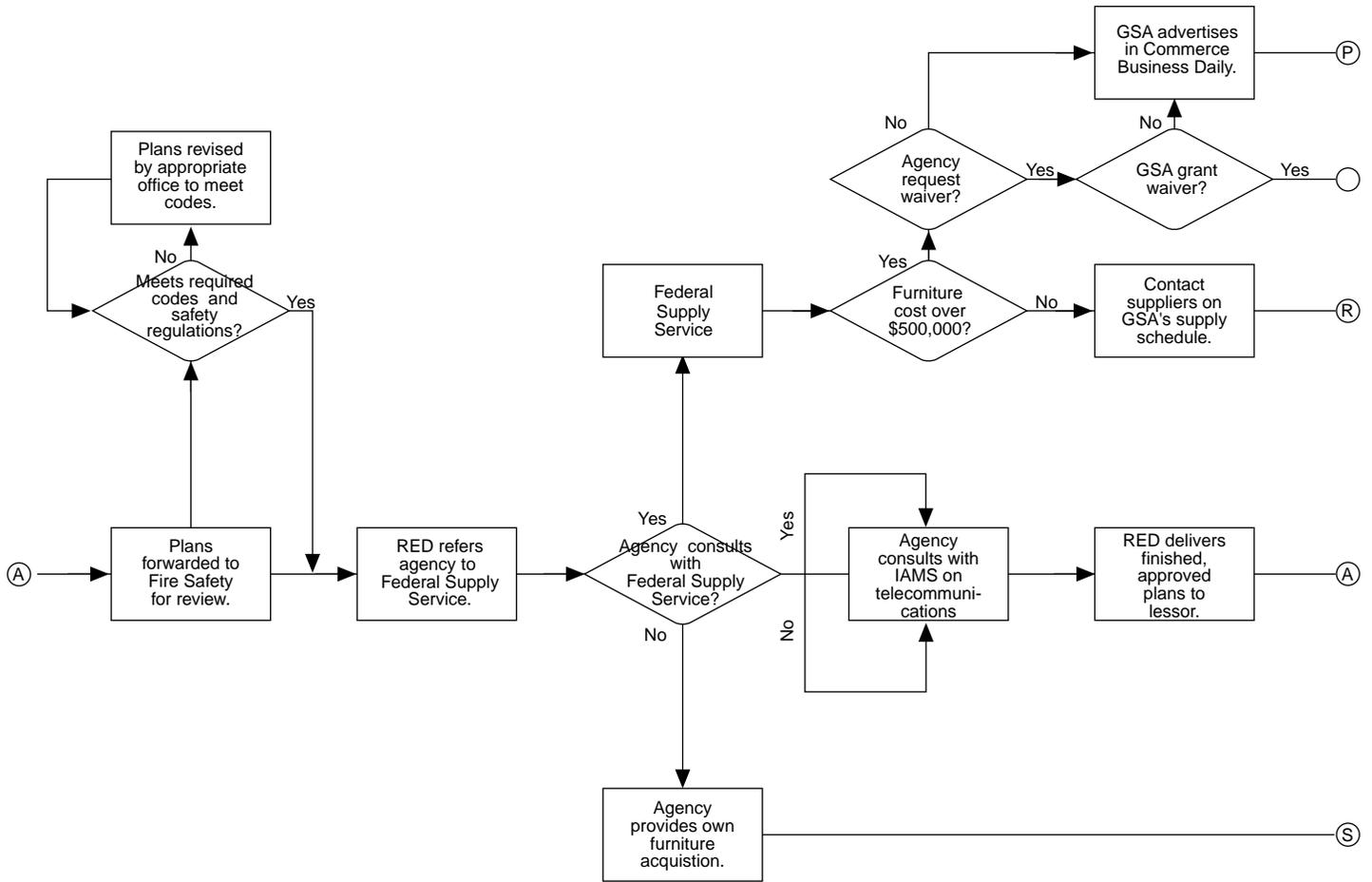
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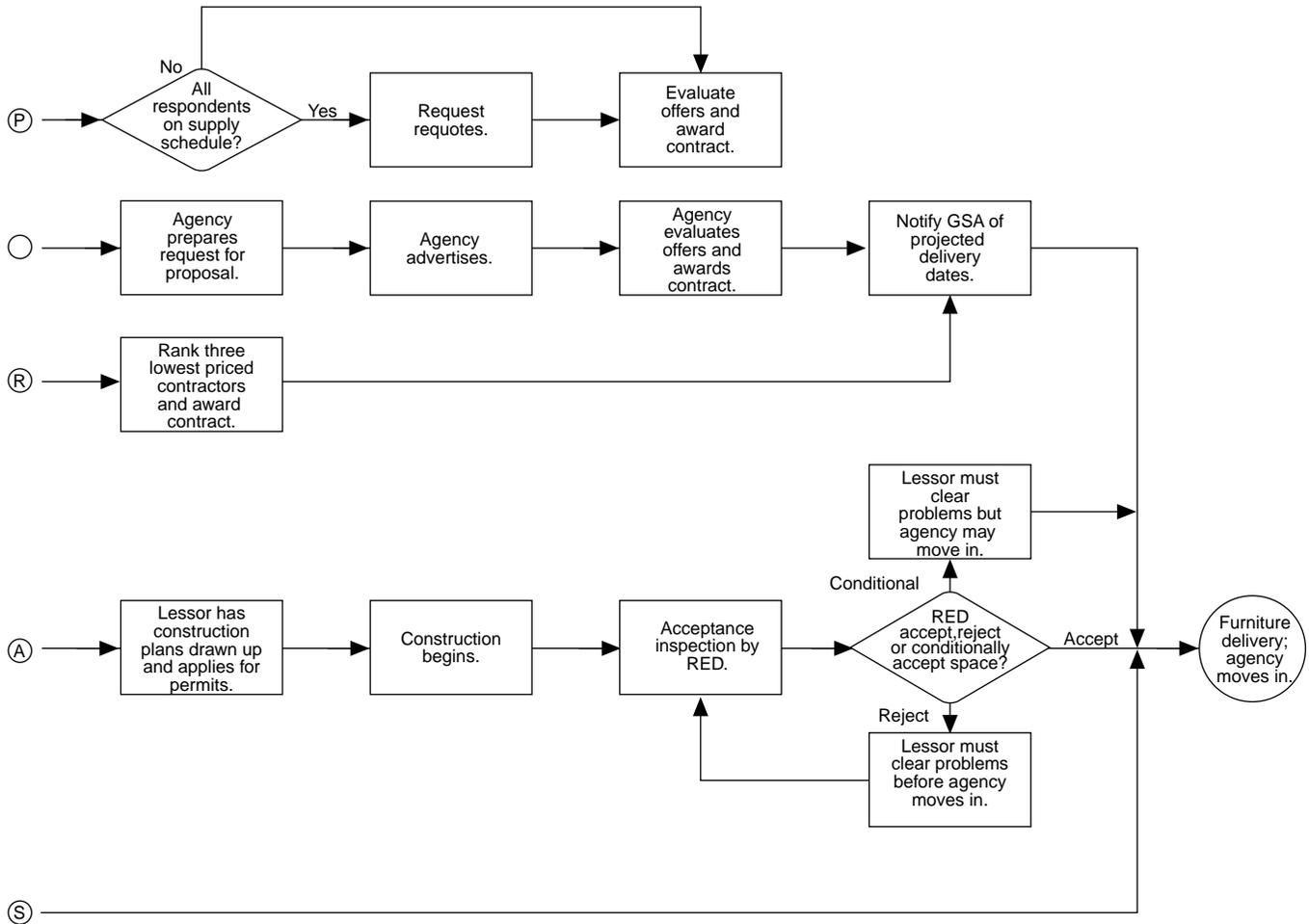
**Appendix II
Flowchart of GSA's Leasing Process**



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Flowchart of GSA's Leasing Process**



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Sampled GSA Leases

Lease number	Address	City	No. of square feet
LTX13207	400 S. Record Street	Dallas	6,092
LTX13222	1400 Parker Street	Dallas	540
LTX13448	1801 N. Lamar Street	Dallas	15,418
LTX13765	717 N. Harwood Street	Dallas	17,844
LTX13271	1545 Mockingbird Lane	Dallas	8,200
LTX13461	1499 Regal Row	Dallas	9,510
LTX13550	8625 King George Drive	Dallas	13,338
LTX13699	6303 Harry Hines Blvd.	Dallas	16,453
LTX13708	10325 Lake June Road	Dallas	6,300
LNy22408	4288 Broadway	New York	15,850
LNy22414	110 E. 59th Street	New York	7,466
LNy22464	99 10th Avenue	New York	463,399
LNy22493	150 William Street	New York	6,900
LNy22495	120 Church Street	New York	365,128
LNy22522	No. 7 World Trade Center	New York	39,542
LNy22542	237 W. 48th Street	New York	11,700
LNy22590	100 Church Street	New York	34,283
LNy22636	80 Broad Street	New York	11,954
LNy22639	866 UN Plaza	New York	3,724
LNy22645	231-235 Grand Street	New York	5,352
LNy22684	120 W. 45th Street	New York	7,173
LCA08058	1700 Montgomery Street	San Francisco	14,950
LCA68302	550 Kearny Street	San Francisco	5,630
LCA68322	75 Hawthorne Street	San Francisco	95,229
LCA86796	120 Howard Street	San Francisco	15,726
LCA89240	75 Hawthorne Street	San Francisco	141,595
LCA89509	301 Howard Street	San Francisco	23,810
LCA89959	600 Harrison Street	San Francisco	47,831
LCA90017	71 Stevenson Street	San Francisco	9,663
LCA90062	101 Spear Street	San Francisco	111,059
LCA90430	600 Harrison Street	San Francisco	21,945
LCA90473	345 Spear Street	San Francisco	11,392
LCA91070	235 Pine Street	San Francisco	5,323
LCA91267	71 Stevenson Street	San Francisco	126,188

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Appendix IV
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Related GAO Products

Budget Issues: Budget Scorekeeping for Acquisition of Federal Buildings
(GAO/T-AIMD-94-189, Sept. 20, 1994).

Federal Real Property: National Performance Review Recommendations
(GAO/T-GGD-93-47, Sept. 21, 1993).

Federal Real Property: Key Acquisition and Management Obstacles
(GAO/T-GGD-93-42, July 27, 1993).

Federal Buildings Fund Limitations (GAO/GGD-93-34R, Apr. 5, 1993).

General Services Issues (GAO/OCG-93-28TR, Dec. 1992).

General Services Administration: Actions Needed to Improve Protection Against Fraud, Waste, and Mismanagement (GAO/GGD-92-98, Sept. 30, 1992).

Federal Office Space: Obstacles to Purchasing Commercial Properties From RTC, FDIC, and Others (GAO/GGD-92-60, Mar. 31, 1992).

Real Property Management Issues Facing GSA and Congress (GAO/T-GGD-92-4, Oct. 30, 1991).

GSA: A Central Management Agency Needing Comprehensive Congressional Oversight (GAO/T-GGD-92-3, Oct. 29, 1991).

Long-term Neglect of Federal Building Needs (GAO/T-GGD-91-64, Aug. 1, 1991).

Federal Buildings: Actions Needed to Prevent Further Deterioration and Obsolescence (GAO/GGD-91-57, May 13, 1991).

Facilities Location Policy: GSA Should Propose a More Consistent and Businesslike Approach (GAO/GGD-90-109, Sept. 28, 1990).

The Disinvestment in Federal Office Space (GAO/T-GGD-90-24, Mar. 20, 1990).

Federal Office Space: Increased Ownership Would Result in Significant Savings (GAO/GGD-90-11, Dec. 22, 1989).

Building Purchases: GSA's Program Is Successful but Better Policies and Procedures Are Needed (GAO/GGD-90-5, Oct. 31, 1989).

Public Buildings: Own or Lease? (GAO/T-GGD-89-42, Sept. 26, 1989).

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